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FILED

FEB 26 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

5 IN THE UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

7 DR. LAKSHMI ARUNACHALAM,

8 Plaintiff,

9 vs.

- 10 1. APPLE, INC., ASSIGNS AND AGENTS,
AND APP STORE WEB APPLICATION
PROVIDERS;
11 2. SAMSUNG ELECTRONICS AMERICA,
INC., ASSIGNS AND AGENTS, AND
SAMSUNG'S GOOGLE PLAY WEB
APPLICATION PROVIDERS;
12 3. FACEBOOK, INC., ASSIGNS AND
AGENTS;
13 4. ALPHABET, INC., ASSIGNS AND
AGENTS, AND GOOGLE PLAY WEB
APPLICATION PROVIDERS;
14 5. MICROSOFT CORPORATION, ASSIGNS
AND AGENTS, AND CUSTOMERS;
15 6. INTERNATIONAL BUSINESS
MACHINES CORPORATION, ASSIGNS
AND AGENTS, AND CUSTOMERS;
16 7. SAP AMERICA, INC., ASSIGNS AND
AGENTS, AND CUSTOMERS;
17 8. JPMORGAN CHASE AND COMPANY,
ASSIGNS AND AGENTS;
18 9. FISERV, INC., ASSIGNS AND AGENTS,
AND CUSTOMERS;
19 10. WELLS FARGO BANK, ASSIGNS AND
AGENTS;
20 11. CITIGROUP, CITIBANK, ASSIGNS AND
AGENTS;
21 12. FULTON FINANCIAL CORPORATION,
ASSIGNS AND AGENTS;
22 13. ECLIPSE FOUNDATION, INC. AND ITS
MEMBERS; AND
DOES 1-100 INCLUSIVE,

23 Defendants,

Case No.: _____

CV 18 1250

COMPLAINT FOR

CORRUPT ANTITRUST
EXPORT/IMPORT
INFRINGEMENT(S) COLORED BY
LAW AND AUTHORITY
TO PROTECT PLAINTIFF'S
PUBLIC RIGHT AGAINST A
CONSTITUTIONAL TORT

FILED: FEBRUARY 26, 2018

DEMAND FOR JURY TRIAL
YES

DVR

Omina presumuntur rite esse acta

1 *A prima facie presumption of the regularity of the acts of public officers exists until the*
 2 *contrary appears*

PREFACE

1. There are certain moral attributes common to the ideal administrative adjudicator,
 court judge, ministerial official, and practicing attorney, a lack of which is indicated by acts of
 dishonesty, or (procedural) unfair dealing, of indecency or (process) indecorum or of
 (substantive) lawlessness, (fundamental) injustice or cruelty. Not everyone is or can be
 expected to meet ideal moral (or ethical) standards, but there is a limit of tolerance below which
 these individuals cannot fall without seriously compromising one's solemn oath and fitness to
 practice in the administration of public justice and enforcement of the United States Constitution
 and Law(s) of the Land. Constitutional dereliction(s) of imposed duty(s); here, contemplated is
 where one willfully or negligently fails to perform them, or performs them in a culpably
 inefficient manner. When the failure is with full knowledge of the solemn duty and an intention
 not to perform (or enforce) it, the omission is willful. When the nonperformance is the result of
 a lack of ordinary care, the omission is negligent. Culpable inefficiency is inefficiency for which
 there is no reasonable or just excuse. Thus, where it appears the adjudicator(s) or attorney(s) had
 the ability and opportunity to perform (and enforce) their entrusted constitutional duties
 efficiently, but performed them inefficiently nevertheless, they are guilty of breaching their
 solemn oath to protect the Constitution and Laws of the Land. However, where the dereliction
 and breach of solemn duty is caused by ineptitude [Ignorance, indifference, or sincere
 confusion.] rather than by willfulness, negligence, or culpable inefficiency, the breach of solemn
 oath will not elevate to the acceptable charge of treason on the U.S. Constitution itself, as a act of
 waging war on *that* document. While the former is the great weight; upon, which Plaintiff has

1 had to contend with [Up to and including the Supreme Court (collectively ignoring the Law of
 2 the Land and allowing the Legislature to [De jure.] quasi-reverse the [Stare decisis.] Law of the
 3 Land prohibiting rescinding government grants once issued.]. *[T]he*, latter has *patently* resulted
 4 in the USPTO/PTAB (Revolving door), practicing Member Attorney(s), and the Federal Circuit
 5 Judges creating '*Bad Case Law*' [For two centuries.] in breach of solemn oath(s) and public
 6 trust(s) in violation of Chief Justice Marshall's '*First Impression Constitutional Res Judicata*
 7 Mandate prohibiting rescinding Government issued Contract Grants, delineated in *Fletcher v.*
 8 *Peck*, 10 U.S. 87 (1810). Continuing ineptly [Now willfully.] has resulted in a) the Agency's,
 9 demonstrated (*dishonest*) 'Breach of Public Contracting' with Inventors in fraudulently failing
 10 (*after soliciting and inducing*) to honor the 'Patent Prosecution History Estoppel' provision [By
 11 remaining silent as to it, as Public Fraud - on reexamination venue to the Federal Circuit.]; b) the
 12 Agency's, (*disgraceful*) 'Conflict-of-(Public Trust)-Interest' in challenging the 'Construction
 13 and Terms' of a Granted Patent [In the instant case, Plaintiff's patents were reexamined at
 14 least thirteen (13) times .] for infringers and competitor(s) in litigation and [Emphasis added.] in
 15 corrupt association.; c) the Agency's, (*disparately unjust*) 'Administrative Procedural Process'
 16 [Notwithstanding a) and b) (*supra*).]. *[T]hat*, denied Plaintiff reasonable access to the process
 17 itself upon the question of due process (*noticed*) enforcement of the Mandate prohibiting
 18 rescinding government grants once issued. Here, Patent Administrative judges refused e-filing
 19 access, when asked to recuse due to the PTAB judge [as per his own Annual Financial
 20 Disclosure Statement.] having direct stock in Microsoft, the Third Party Requester of a Re-
 21 examination of the Granted Patent; Failed, to docket Plaintiff's filings; altered, the captions of
 22 filings; arbitrarily, and capriciously denied motions systematically; and, collectively avoided all
 23 filings with notice of the Agency's solemn duty to uphold the Law of the Land (respecting
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1 *Fletcher v Peck*); while, overzealously enforcing the Legislative (Obama's) 'America Invents
 2 Act' [De jure (treasonably).] overturning *Fletcher v. Peck.*; and, **d) if that's not enough, the**
 3 **Agency, in furtherance, failed to comply (in contempt) of the Federal Circuit's recent**
 4 **(honorable) ruling in *Aqua Products Inc. v. Matal*, 15-1177, October 2017, reversing all**
 5 **Decisions by courts and the PTAB, including the Federal Circuit's own past rulings, that did not**
 6 **consider 'Patent Prosecution History'; lawlessly failing to apply this ruling to Plaintiff's case.**

7
 8 2. Fundamental guarantees apply to rights as well as procedure; and, they apply to
 9 all departments of government. Citizens are entitled to protection(s) against fraud and
 10 oppression of which Plaintiff has had to contend with. Laws impairing contracts are
 11 unconstitutional; and, according to *Fletcher v. Peck*, executed grants being treated as contracts
 12 cannot be repudiated. If this stare decisis constitutional mandate is the Law of the Land; how,
 13 then can the Supreme Court find the Legislature's reexamination of existing granted patents (for
 14 the purpose of being rescinded) constitutional? Unless the Supreme Court's discretionary
 15 decision not to entertain, protect, or enforce the Law of the Land within the purview of
 16 protecting the public's right; it, certainly does not excuse the duty in relation to waiving the
 17 Breach of Solemn Oath imposed upon the constitutional tortfeasor. Clearly, it would be
 18 reasonably accurate to find (under the instant circumstances); although, hard to imagine that the
 19 entire Patent Law Administration (including the Federal Circuit and Supreme Court) have been
 20 ignorant of the law governing grants (for two centuries); or, treasonably lawless or indifferent to
 21 the rights attaching to the patent grant itself; and, creating 'Bad Law' upon which to administer
 22 injustice. It is little wonder why this issue has been avoided; and, the USPTO representing
 23 infringers, ignoring 'Patent Prosecution History Estoppel' rules of construction; and, more
 24 particularly refusing to grant Plaintiff a rehearing [It is simply too embarrassing.]. Unless
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 26
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1 *Fletcher* does not apply or has been rescinded/reversed [By the Supreme Court and not the
2 Legislature.], this court must rule in the public's best interest; and, advise patent victims their
3 attorneys need to refund their monies for incompetence; and, the government must reimburse
4 patent victims for this recklessly incompetent administration of injustice.
5

6 Dated: February 26, 2018

Respectfully propounded,

7 Lakshmi Arunachalam
8

9 Dr. Lakshmi Arunachalam,
10 Victim

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1	Distribution — The Defendants' Fraudulent Common Public 2 License ("Agreement") Is Further Proof of Their Conspiracy. 3 — The Common Public License is a contract that violates 4 Sections 1 and 2 of the Sherman Antitrust Act. 5 - Likewise, the Agreement between Apple and Google with their respective App Store and Google Play Web App Providers are Each a Contract in Violation of Sections 1 and 2 of the Sherman Antitrust Act.	
6	3. Eclipse Foundation Members Demonstrate Irrational 7 Coordinated Action, Confirming their Conspiracy and Intent to Injure U.S. and Foreign Competitors, Share Editing The Eclipse Code.	30
8	A) <u>The IBM Eclipse Foundation:</u> (i) Acquisition and 9 maintenance of an interest in and control of an <i>enterprise</i> 10 engaged in a <i>pattern of racketeering activity</i> and (ii) Conspiracy to engage in a pattern of antitrust racketeering 11 activity, as anti-competitive conduct and violations of antitrust laws	30
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25	2. IBM creates False Origin CPL License Agreement from Eclipse Foundation, and acts as Agreement Steward with Full Control over Distribution;	62
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1	Designations with a CPL License Agreement, and Apple's App Store, Google Play, and Samsung's Google Play selling stolen goods, unlicensed Web Applications, Concealed from Consumers, to Deceive the Market and U.S. Consumers and the Competition.	
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1 Plaintiff DR. LAKSHMI ARUNACHALAM, (“Dr. Arunachalam”), representing
 2 herself, to secure constitutional redress for public right and royalties on Antitrust infringement,
 3 and for her Complaint against APPLE, INC. (“Apple”), SAMSUNG ELECTRONICS
 4 AMERICA, INC., (“Samsung”), App Store and Samsung’s Google Play Web application
 5 providers, FACEBOOK, INC. (“Facebook”), ALPHABET, INC., ASSIGNS AND AGENTS,
 6 AND GOOGLE PLAY WEB APPLICATION PROVIDERS (“Google”), MICROSOFT
 7 CORPORATION (“Microsoft”), IBM, SAP AMERICA, INC. (“SAP”), JPMORGAN CHASE
 8 AND COMPANY (“JPMorgan”), FISERV INC. (“Fiserv”), WELLS FARGO BANK (“Wells
 9 Fargo”), CITI GROUP/CITIBANK (“Citi”), FULTON FINANCIAL CORPORATION
 10 (“Fulton”), ECLIPSE FOUNDATION INC. (“Eclipse”), and DOES 1-100, in corrupt
 11 association(s), each a (“Defendant”), and Incidentals (listed *infra*), hereby alleges as follows:
 12

13 **I. INTRODUCTION**

14 1. This is an antitrust action under Sections 1 and 2 of the Sherman Act of 1890, 15
 15 U.S.C. § 2 (2004) (the “Sherman Act”), the Clayton Act, 15 U.S.C. § 15(a); 15 U.S.C. § 26 and
 16 Cartwright Act, to restrain anti-competitive conduct by Defendants — *selling stolen goods in the*
 17 *largest online marketplace running on each IoT device, concealed from consumers that it is*
 18 *unlicensed* — to exclude Plaintiff (and others similarly situated) from the market. Their conduct
 19 in doing so caused antitrust injury to Plaintiff.

20 **II. PARTIES IN THIS COMPLAINT**

21 a. **Plaintiff**

22 DR. LAKSHMI ARUNACHALAM
 23 222 Stanford Avenue, Menlo Park, CA 94025; Tel: (650) 690-0995;
 24 laks22002@yahoo.com

25 b. **Defendants**

1 **Defendant 1:** APPLE, INC., ASSIGNS AND AGENTS, AND APP STORE WEB
2 APPLICATION PROVIDERS,
3 1 Infinite Loop, Cupertino, California 95014; Tel: 408.996.1010;

4 ATTORNEY(S) OF RECORD: WEIL, GOTSHAL & MANGES LLP, (BRIAN E.
5 FERGUSON, ROBERT T. VLASIS III),
6 2001 M Street, N.W., Suite 600, Washington DC 20036; Tel: 202.682.7000

7 **Defendant 2:** SAMSUNG ELECTRONICS AMERICA, INC., ASSIGNS AND
8 AGENTS, AND SAMSUNG GOOGLE PLAY WEB APPLICATION PROVIDERS,
9 85 Challenger Road, Ridgefield Park, NJ 07760; Tel: 201.229.5000;

10 ATTORNEY(S) OF RECORD: COVINGTON & BURLING LLP, (STURGIS M.
11 SOBIN, DANIEL VALENCIA, HWA YOUNG JIN),
12 One City Center, 850 Tenth Street, NW; Washington DC 20001; Tel: 202.682.7000

13 **Defendant 3:** FACEBOOK, INC., ASSIGNS AND AGENTS,
14 1 Hacker Way, Menlo Park, CA 94025; Tel: 650.543.4800; 650.308.7300;

15 ATTORNEY(S) OF RECORD: COOLEY LLP, (STEPHEN R. SMITH, LISA F.
16 SCHWEIR, HEIDI L. KEEFE),
17 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004; Tel: 202.842.7800

18 **Defendant 4:** ALPHABET, INC., ASSIGNS AND AGENTS, AND GOOGLE PLAY
19 WEB APPLICATION PROVIDERS;
20 1600 Amphitheatre Parkway, Mountain View, CA 94043; Tel: 650.253.0000;

21 **Defendant 5:** MICROSOFT CORPORATION, ASSIGNS AND AGENTS, AND
22 CUSTOMERS;
23 One Microsoft Way, Redmond, Washington 98052-6399, Tel: (425) 882-8080;

24 ATTORNEY(S) OF RECORD: KLARQUIST SPARKMAN LLP,(WINN GARTH)
25 121 SW Salmon St #1600, Portland, OR 97204; Tel: (503) 595-5300

26 **Defendant 6:** INTERNATIONAL BUSINESS MACHINES CORPORATION,
27 ASSIGNS AND AGENTS, AND CUSTOMERS;
28 1 New Orchard Road, Armonk, New York 10504, Tel: 914. 499.6500;

29 ATTORNEY(S) OF RECORD: MAYNARD COOPER & GALE, P.C. (KEVIN J.
30 CULLIGAN),
31 551 Fifth Avenue, Suite 2000, New York, NY 10176, Tel: 646.609.9282
32 KIRKLAND & ELLIS (EDWARD C. DONOVAN, P.C.),
33 655 Fifteenth Street, N.W., Washington, D.C. 20005-5793, Tel: 202.879.5289

34 **Defendant 7:** SAP AMERICA, INC., ASSIGNS AND AGENTS, AND CUSTOMERS;

1 3999 West Chester Pike, Newtown Square, PA 19073, Tel: +1-610-661-1000;

2 ATTORNEY(S) OF RECORD: STERNE KESSLER GOLDSTEIN & FOX; (LORI
3 GORDON; ROBERT STERNE);

4 1100 New York Ave NW # 800, Washington, DC 20005; Tel: (202) 371-2600

JONES DAY, (GREG LANIER),

5 1755 Embarcadero Road, Palo Alto, CA 94303; Tel: 650.739.3941

6 **Defendant 8:** JPMORGAN CHASE AND COMPANY, ASSIGNS AND AGENTS;
7 270 Park Avenue, New York, NY, Tel: 212-270-6000;

8 ATTORNEY(S) OF RECORD: SKADDEN, ARPS, SLATE, MEAGHER & FLOM,
9 LLP, (DOUG NEMEC, EDWARD TULIN, DANIEL A. DEVITO),
4 Times Square, New York, NY 10036; Tel: (212) 735-3000;

10 **Defendant 9:** FISERV, INC., ASSIGNS AND AGENTS, AND CUSTOMERS;
11 255 Fiserv Drive, Brookfield, Wisconsin 53045; Tel: (262) 879-5000;

12 ATTORNEY(S) OF RECORD: PERKINS COIE LLP, (RAMSEY M. AL-SALAM),
13 1201 3rd Ave #4900, Seattle, WA 98101; Tel: (206) 359-8000;

14 **Defendant 10:** WELLS FARGO BANK, ASSIGNS AND AGENTS,
15 420 Montgomery Street, San Francisco, CA 94163; Tel: 800.869.3557; 866.249.3302;

16 ATTORNEY(S) OF RECORD: CARLSON CASPERS (DOUGLAS J. WILLIAMS),
17 Capella Tower, Ste 4200, 225 S. Sixth St, Minneapolis, MN 55402, Tel.:612.436.9600

18 **Defendant 11:** CITIGROUP, CITIBANK, ASSIGNS AND AGENTS;
19 399 Park Avenue, New York, NY 10022, Tel: 212.559.1000; and
388 Greenwich Street, New York, NY 10013; Tel: 800-285-3000;

20 ATTORNEY(S) OF RECORD: DENTONS (MARK NELSON),
21 2000 McKinney Ave #1900, Dallas, TX 75201-1858; Tel: (214) 259-0900

22 **Defendant 12:** FULTON FINANCIAL CORPORATION, ASSIGNS AND AGENTS;
23 One Penn Square, P. O. Box 4887, Lancaster, Pennsylvania 17602; Tel: 717-291-2411;

24 ATTORNEY(S) OF RECORD: KILPATRICK TOWNSEND AND STOCKTON, LLP,
1100 Peachtree St NW #2800, Atlanta, GA 30309; Tel: (404) 815-6500

25 **Defendant 13:** ECLIPSE FOUNDATION, INC. AND ITS MEMBERS,
26 102 Centrepointe Drive, Ottawa, Ontario, Canada, K2G 6B1; Tel: 613.224.9461;

27 **And, DOES 1 through 100,** inclusive, and Incidentals (Listed in Attachment 1.)

1 2. Plaintiff, Dr. Arunachalam is an icon of America Invents. Dr. Arunachalam, a
2 United States citizen, is the inventor of the Internet of Things (IoT) — Web Applications
3 displayed on a Web browser — and IoT devices, apparatuses, machines — whose current market
4 value far exceeds multi-trillion dollars. She is the assignee of a portfolio of a dozen earliest
5 Internet patents, deriving their priority date from her provisional patent application with S/N
6 60/006,634 filed November 13, 1995. Her inventions created the proliferation of IoT devices,
7 and the millennial generation. Web applications displayed on a Web browser were non-existent
8 in 1995. What existed prior to 1995 was CGI scripts and islands of information with applications
9 local to the Back Office of large enterprises. Dr. Arunachalam founded three start-up companies
10 in Silicon Valley, namely, (i) Pi-Net International Inc. (“Pi-Net”), a Web applications and
11 solutions’ company with over a hundred customers and provided services to Fortune 500
12 companies in the United States since 1990; (ii) WebXchange, Inc. that implemented her patents
13 and markets IoT and Web application platform solutions, products and services, since 1996; and
14 (iii) e-pointe, Inc., that designed and marketed IoT connectors and end-points, certified by First
15 Data Corporation for real-time two-way credit card transactions over the Web from Web
16 applications displayed on a Web browser. She is the assignee of U.S. Patent Nos. 5,987,500
17 ('500 patent), 8,108,492 ('492 patent) and 8,037,158 ('158 patent) asserted against JPMorgan
18 Chase and Company (“JPMorgan”) in the U.S. District Court for the District of Delaware Case
19 No. 1:12-cv-282-SLR/RGA (D.Del.); of U.S. Patent No. 7,340,506 ('506 patent) asserted against
20 the United States in the U.S. Court of Federal Claims Case No. 1:16-cv-358c-NGF (COFC) and
21 against IBM in the U.S. District Court for the District of Delaware Case No. 1:16-cv-281-RGA
22 (D.Del.); of U.S. Patent No. 8,271,339 ('339 patent) asserted against Fremont Bancorporation *et*
23 *al* (“Fremont Bank”) in the U.S. District Court for the Northern District of California and Fulton
24
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1 Financial (“Fulton Bank”) in Case No. 1:14-cv-490-RGA (D.Del.); of U.S. Patent Nos.
2 5,778,178 (“178 patent”) and 6,212,556 (“556 patent”) asserted in the U.S. District Court for
3 the District of Delaware against Fedex, Dell and AllState Insurance, customers of Microsoft;
4 and of U.S. Patent No. 7,930,340 (“the ‘340 patent”), asserted against Apple, Inc., Samsung, and
5 Facebook in the USITC Case No. 337-1094.
6

7 3. Her inventions achieved huge commercial success — Web banking, social
8 networking, to name a few — and are mission-critical to U.S. Government’s operations,
9 including improving national security. Her patented inventions are in ubiquitous use worldwide,
10 allowing Defendants to make \$trillions. Dr. Arunachalam helped pioneer advances at the heart of
11 IoT connectivity and Web applications and two-way real-time Web transactions from Web
12 applications from multi-media IoT devices/apparatuses/machines. Her inventions enabled the
13 entire IoT device / smartphone revolution.
14

15 4. Defendant Apple is a Delaware corporation with its principal place of business
16 located at 1 Infinite Loop, Cupertino, California 95014. Apple regularly conducts and transacts
17 business in this District, as well as throughout the United States. Apple manufactures, markets,
18 and sells the iPhone, iPaD, among other IoT devices with App Store including 2M+ Web
19 applications displayed on a Web browser.
20

21 5. Defendant, Samsung’s U.S. Headquarters is located at 85 Challenger Road,
22 Ridgefield Park, NJ 07760, USA. Samsung offers PCs, tablets, mobile smart Phones, and other
23 mobile platforms, IoT devices with Google Play including 3M+ Web applications, utilizing
24 Plaintiff’s patents, manufactures them in Vietnam, and imports them into the U.S. for sale. It
25 transacts business in California, in the United States and worldwide..
26

27 6. Defendant Facebook is a Delaware corporation with its principal place of
28

1 business located at 1 Hacker Way, Menlo Park, California 94025. Facebook regularly conducts
 2 and transacts business in this District, as well as throughout the United States. Apple
 3 manufactures, markets, and sells the iPhone, iPaD, among other IoT devices with App Store
 4 including 2.2 M+ Web applications, including the Facebook social networking Web application,
 5 displayed on a Web browser.

7 7. The addresses of the Headquarters of Defendants 4-13 is provided in this Section
 8 II *supra*. Defendants 4 and 10 are based in California. Defendants 4-12 have offices in this
 9 District and/or have extensive business activities in this District. Defendant 13 is The Eclipse
 10 Foundation, Inc. based in Canada, but with many of its members headquartered in California.
 11

12 III. JURISDICTION AND VENUE

13 8. This Court has federal question jurisdiction pursuant to the Sherman Act, the
 14 Clayton Antitrust Act of 1914, 15 U.S.C. § 15, and pursuant to 28 U.S.C. §§ 1331 and 1337.
 15

16 9. Plaintiff Dr. Arunachalam is, and at all times herein mentioned a California
 17 resident and an individual residing at 222 Stanford Avenue, Menlo Park, CA 94025. She created
 18 prototypes of the patented technology, and installed it at beta sites in California, such as Cisco,
 19 Stanford, and others. She provided software solutions to complex business problems that needed
 20 a technological solution, invented and developed Web applications such as Web banking and
 21 other business Web applications, even prior to 1995, when one-way Web browsing was the
 22 norm. She raised venture capital in California for her companies. Plaintiff has provided
 23 employment to many employees in California during her 28 years of being an entrepreneur and
 24 running her companies in California.

25 10. This Court has personal jurisdiction over the Defendants by virtue of their
 26 business activities within this judicial district; and therefore, reside here for venue purposes. The
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 28

bulk of the events and a substantial portion of the work and events or omissions giving rise to Plaintiffs' claims occurred in California.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Apple, Facebook, Google and Wells Fargo have their principal place of business and are subject to personal jurisdiction in this District. Plaintiff hereby incorporates paragraph 7 *supra* by reference, as if it were set forth fully herein.

IV. INTRADISTRICT ASSIGNMENT

12. This lawsuit should be assigned to San Francisco Division of this Court because Apple, Facebook, Google and many of the Defendants are located or have a presence here by virtue of their business activities within this judicial district. Plaintiff lives in San Mateo County.

V. MATERIAL FACTS ON THE PRODUCTS AT ISSUE

A. PLAINTIFF'S INVENTIONS POWER THE MOBILE APP ECOSYSTEM, ONE OF THE BIGGEST INDUSTRIES ON THIS PLANET

13. Dr. Arunachalam invented the Internet of Things (IoT), Web applications displayed on a Web browser, *without which Apple’s and Samsung’s devices would not be smart devices*. Specifically, the iPhone would not be a smartphone. Apple has 2.5B iPhone users. Plaintiff’s patented inventions benefit billions of consumers worldwide, providing real-time Web transactional capabilities from Web applications, resulting in “*the mobile app ecosystem, one of the biggest industries on this planet.*” It encapsulates millions of app developers, billions of smartphone owners who use mobile apps daily and the companies that drive this ecosystem – Apple, Samsung, Google, and the companies, namely, IBM, SAP, Microsoft, Fiserv, among others that develop Web applications for the content owners (for example, JPMorgan, Wells Fargo, CitiBank, U-Haul, Hertz, Avis, Facebook, games) with a presence in Apple’s App Store and Samsung’s Google Play. The Web application developers and content owners are termed

1 “Web application providers.” The major distribution channel for mobile apps is an app store (or
 2 app marketplace). Two biggest app stores are the Apple iOS App Store running on Apple’s IoT
 3 devices running Apple’s iOS and Google’s Google Play running on Android IoT devices sold by
 4 Samsung and other manufacturers. Google sees its Android app store as yet another channel to
 5 distribute software, where the company can place ads and profit on it.

7 14. An IoT device is an Internet-connected device with Web applications displayed
 8 on a Web browser, necessarily utilizing Plaintiff’s patented VAN Switch. For example, Apple’s
 9 iPhones, iPads, with Apple’s App Store with 2.2 M+ Web applications; Samsung Galaxy
 10 smartphones and tablets with Google Play with 3 M+ Web applications.
 11

12 **B. DEFENDANTS ACQUIRED DOMINANT MARKET POWER BY
 13 ENGAGING IN ANTICOMPETITIVE CONDUCT**

14 15. Apple is the world’s largest supplier of IoT devices offering 2.2 M Web
 15 applications from the world’s largest online marketplace App Store. Apple sold approximately
 16 1.836B IoT devices in the last six years. Apple launched its first smartphone, the iPhone, on
 17 June 29, 2007. Apple built the iPhone’s operating system, known as “iOS,” to enable iPhone
 18 users to download from App Store and run Web applications displayed on a Web browser to do
 19 Web banking, Uber, Facebook, play games. According to IDC, in 2017, “the worldwide
 20 smartphone market saw a total of 1.472 billion units shipped.” The following statistics shows
 21 Apple and Samsung have dominant market share: The total number of mobile app downloads in
 22 2017 – 197 billion versus 149 billion in 2016, projected to be 352 billion by 2021. The total
 23 number of Android app downloads in 2016 – 90 billion; The total number of iOS app downloads
 24 in 2016 – 25+ billion; The most popular app, both iOS and Android, by penetration – Facebook
 25 (81% of users); The most popular iOS app category, by volume – Games (25%); The most
 26

1 popular Android app category, by penetration – Tools (99.8%); Total number of app publishers –
 2 968k (Google Play), 498k (App Store), 75k (Amazon AppStore). As a result of engaging in
 3 anticompetitive schemes to monopolize the App Store with (unlicensed) Web applications,
 4 invented by Plaintiff, from introduction of the iPhone 2G in 2007 through the present, Apple and
 5 Samsung, control 80% of the worldwide distribution market for Web applications, with its next
 6 two largest competitors controlling about 10% of the market. Apple's iOS App Store is the
 7 pioneer of the mobile app ecosystem, with only 500 apps at launch, with 2.2 million as of
 8 1/2017. The Android Market, part of the Google Play G marketplace, was launched 3 months
 9 after the Apple's App Store in October of 2008. By October of 2012, Google Play matched the
 10 Apple's App Store by the number of apps. In 6/17, the number of Android apps reached 3M. The
 11 current rate of its growth is more than *1300 apps a day*. The reason why Google Play app market
 12 has been growing faster than the Apple's App Store is that Android OS, the operating system
 13 that drives apps published on it, was released by Google under open source licenses. Multiple
 14 companies sell smartphones and tablets that run Android OS and hence the overall volume of
 15 hardware, for which Android app developers create apps, is much larger than its Apple's iOS
 16 counterpart and also includes wearables, health care, robotics, autonomies car, smart home and
 17 desktop applications such as Chromebook. Apple's App Store continues its domination in terms
 18 of how much revenue it generates for app developers, but Google Play has more registered
 19 publishers. “It is unlikely any company will be able to shake up the existing Apple-Google-
 20 Amazon trio of the mobile application stores.”
 21

22 C. **WEB APPLICATIONS IN APPLE'S APP STORE AND SAMSUNG'S**
 23 **GOOGLE PLAY ARE UNLICENSED APPS — STOLEN GOODS — FOR**
 24 **WHICH NO ROYALTIES HAVE BEEN PAID TO PLAINTIFF**

1 16. This theft generated trillions in revenue for Defendants at Plaintiff's expense and
 2 caused a substantial anti-competitive [Unjust Enrichment.] effect. Defendants violated antitrust
 3 laws in an effort to monopolize the Web applications market place, undermining fair
 4 competition.
 5

6 **D. DEFENDANTS' FRAUDULENTLY PROCURED RE-EXAMINATIONS,
 7 IPR/CBM REVIEWS CAUSED A SUBSTANTIAL ANTICOMPETITIVE
 8 EFFECT OF DELAY UNTIL PATENTS EXPIRE, VIOLATING THE
 9 WALKER U. S. SUPREME COURT RULING**

10 17. The Supreme Court ruling in *Walker Process Equipment, Inc. v. Food Machinery*
 11 & *Chemical Corp.*, 382 U.S. 172 (1965) applies equally to all the fraudulent petitions for re-
 12 examinations and IPR/CBM Reviews filed by Defendants Microsoft, SAP and other Corporate
 13 Defendants against Plaintiff's patents at the USPTO/PTAB, knowingly concealing (i) Patent
 14 Prosecution History Estoppel, contrary to Federal Circuit's recent ruling in *Aqua Products Inc.*
 15 *v. Matal*, 15-1177, 10/17 reversing all rulings that did not consider Patent Prosecution History;
 16 and (ii) U.S. Supreme Court Chief Justice Marshall's ruling in *Fletcher v. Peck*, 10 U.S. 87
 17 (1810) prohibiting the quashing of Government issued Patent Contract Grants from the USPTO,
 18 specifically with the goal of creating an anticompetitive effect to kill Plaintiff's valid patents and
 19 causing delay in PTAB/USITC/court adjudications till Plaintiff's patents expire as a common
 20 antitrust objective. Hence, enforcement of a fraudulently procured Re-examination/IPR/CBM
 21 Review violated the antitrust laws and provides a basis for a claim of treble damages, because it
 22 caused a substantial anticompetitive effect.
 23

24 **E. ANTITRUST IS A FOREGONE CONCLUSION (CONTINUING FROM
 25 US V MICROSOFT¹ WITH FOCUS ON DISTRIBUTING STOLEN
 26 LICENSE THROUGH ECLIPSE AND APP STORES BY CORRUPT
 27 ASSOCIATION-IN-FACT.)**

28 ¹ *U.S. v. Microsoft*, No. 98-1232 (TPJ); No. 98-1233 (TPJ)

1
2 18. Plaintiff's single most important invention allows us to interact with our
3 banks and perform Web banking transactions in real-time, tell everyone what we ate for
4 breakfast on Facebook, and allowed our government to spy on its citizens and backdoor the
5 World Wide Web in the name of '*National Security.*' *In short*, just about every enterprise
6 is infringing Plaintiff's patents.
7

8 19. Microsoft's CTO, Gordon Bell, signed a '*Non-Disclosure Agreement*' with
9 Plaintiff and her company, WebXchange, Inc. in 1996 and interviewed to join her
10 company. Microsoft copied and filed for a patent two years after Plaintiff filed for her
11 patents. Microsoft offered to buy her patents. *That failing*, Microsoft simply infringed
12 upon Plaintiff's patents; *converted*, it to software and eventually (*in corrupt association*
13 *with IBM*) pawned it out as '*Freeware*' to monopolize the global market [Making strange
14 bedfellows with the Government and the Courts.]. Judge Alsup ruled (**Exhibit 12**) against
15 Microsoft, in Plaintiff's favor in Case No. C 08-05149 WHA (N. Dt. CA) on 2/17/09:
16 "Microsoft is using counterfeit logic to manufacture a controversy where none exists."
17

18 20. USPTO/PTAB, Federal Circuit, three Federal District Courts, U.S. Supreme
19 Court, Legislature, USDOJ and the USITC, collectively (*and collusively*) by '*Breach of*
20 *Solemn Oath*' wantonly failed to enforce the '*Law of the Land*' respecting Patent Contract
21 Grants issued by the government; *have*, abused Plaintiff despicably by denying her
22 (*disparately*) access to justice by hindering such access making resort to the court's process
23 upon the question of due process itself difficult, expensive, and hazardous.
24
25

1 21. The '*Corruption and Frauds*' of the Officials above are *more concerned*
 2 *about disposing of Plaintiff's patents, than with the case according to the Law of the Land.*
 3
 4 Due process does not ensure a correct decision, but only a fair hearing².

5 22. Plaintiff's infringed patents have made trillions of dollars for Microsoft,
 6 IBM, SAP, the Banks and the rest (domestically at the start, now globally); and, are
 7 making trillions for Apple, Google, Samsung, Facebook, and the remaining infringers
 8 importing infringing smartphones and other IoT (Internet of Things) devices.

9
 10 23. However, more important than the processes compromised and corrupted;
 11 is, the Breach of Public Trust and Confidence in the Government and Courts:

- 12 a) USPTO/PTAB [Representing the Infringers (*in this case re-examining*
 13 *Plaintiff's patents at least 13 times*); and, the USITC representing the
 14 *Importing Infringers'* interest above the 'Domestic Interest' [We should build a
 15 wall at their border.].]
- 16 b) USPTO/PTAB failing to uphold their '*Public Contract*' — by remaining silent
 17 (*as Public Fraud*) to the Federal Circuit [*Adjudicating patentability of a Granted*
 18 *Patent in 'Breach of Solemn Oath'*.] regarding '*Patent Prosecution History*
 19 *Estoppel*.'
- 20 c) Resulting in '*Public Contract Fraud and Deceit*'; with, inventors burning their
 21 *Patents in Protest before the USPTO*; and, USPTO continuing to induce (*by*

25
 26 ² Here, SAP's attorney Lori Gordon admitted Plaintiff's discovery of U. S. Supreme Court Chief Justice Marshall's
 27 ruling in *Fletcher v. Peck* 10 U.S. 87 (1810) had never been heard of before, challenging the validity of Obama's
 28 America Invents Act of 2012; and, although the lot are learned, they are now either ignorant, indifferent, or
 sincerely confused about the '*Law of the Land*' [Delineated in *Fletcher*— prohibiting the government from
 rescinding grants, once issued.]

1 *corrupt solicitation(s))* unsuspecting inventors to contract with the USPTO
 2 under '*False Pretence of Invention Protection.*'

- 3 d) The Legislature and Supreme Court dwelling together; *allowing*, '*Re-*
 4 *examination of Granted Patents*' for patentability [In contempt and violation of
 5 the Law of the Land – Even by the '*Highest Authority*' [De facto] having the
 6 legislature (AIA) reverse a Supreme Court decision.].
- 7 e) The Government participating in *Corporate Infringers' (domestic and global)*
 8 *Monopoly and Antitrust; to*, spy on citizens and backdoor databases worldwide.
- 9 f) The Courts' and PTAB Judges' *Vested Interests in Corporate Stock* in not
 10 Recusing; *outweighed*, only by his or her Breach of Solemn Oath(s).

11 24. This is the State of the Union regarding '*Patent Law*' administered by a '*Criminal*
 12 (*Revolving-Door*) *Enterprise*' in corrupt association with the judiciary and legislature; *creating*,
 13 bad law for two centuries (ignorant or not), now contemptuously.

14 25. The judiciary [Systematically, issuing *Erroneous and fraudulently* (collusive)
 15 favorable Findings for the Revolving-Door USPTO/PTAB [Aiding and judicially Abetting
 16 Unfair Public Competition.]; enforcing, the legislative enactment provision (colorfully)
 17 'Reexamining' existing patent contract grants authorized by the America Invents Act [Aiding
 18 and Abetting the Antitrust objective(s) of Infringers-at-Large.]; enforcing, 'Bad Law' from
 19 'Lawless Legislation' (ignorant or not); today, (now contemptuously) effectually perpetrates the
 20 very thing entrusted to prevent by USPTO's mission statement: *Fundamentally*,

21 § 140. "...Due Process does...entitle a litigant to an honest , though not
 22 learned tribunal. If a litigant is injured through the corruption or fraud of
 23 the court or other body disposing of his case, She (sic) is entitled to
 24 redress under this section of the Constitution." [Fallbrook Irrigation
 25 District v. Bradley, 164, U.S. pp.1267-70.]

1
2 §141. “Any legislative attempt to do this, whether by direct denial of
3 access to the courts upon this question, or by hindering such access by
4 making resort to the courts upon it difficult, expensive, hazardous, all alike
violates the constitutional provision.”

5 “On the question of ‘Due Process Itself’ and the State of the Union in the
6 fair and proper administration of patent law [Vol. 12, Constitutional Law.
7 Chapter VII, Due Process and Equal Protection of Law: Procedure.
Section 1. Due Process of Law; clearly, entitles Plaintiff to Redress for
this treasonous breach of Solemn Oaths to enforce rights of access.”

8 26. These are the circumstances under which antitrust violations have occurred,
9 namely, the entire administration failing to enforce the Law of the Land, *[Causing damage*
10 *to the public itself entitled to redress from their practicing attorneys and adjudicating*
11 *judges' ruling(s) without jurisdiction and immunity.]*; or, have been administering the
12 patent laws corruptly in breach of the public’s trust. It appears the entire administration has
13 been ignorant of the law.

14
15 27. Even after the Federal Circuit ruled in *Aqua Products, Inc.v. Matal*, Case
16 No. 15-1177, October 2017 that all cases, that did not consider ‘*Patent Prosecution History*
17 *Estopel*’ in respective USPTO/PTAB adjudications, are warranted a reversal, the
18 USPTO/PTAB (*in contempt*) failed to uphold this *Aqua Products, Inc.v. Matal* ruling,
19 discriminating against Plaintiff, in her cases regarding her significant patents, that have
20 benefited this entire nation and globe (*for that matter*).
21
22

23 28. This ‘antitrust’ complaint information is a foregone (*adjudicative*)
24 conclusion involving repetitious wrongful (*domestic and global*) antitrust activity, resulting
25 in the sales of defective, infringed, unlicensed products, unfair methods of competition,
26 unfair acts in the unlawful importation into the United States, sale for importation into the
27 United States, and/or sale within the United States after importation. This complaint
28

information involves (*in furtherance*) the same wrongful antitrust objective activity⁽³⁾ judicially noticed; colored, by the creation of a complex organizational structure created (*in corrupt association(s)*) by Microsoft (*in partnership with Government*), IBM, SAP, and Apple⁽⁴⁾ systematically, organized to disseminate misleading information⁵ under color of (*successfully*) distributing '*Freeware with 'Attaching (Infringed) License'*'. The antitrust objective (1) restricted both domestic and international competition; (2) provided dominance and 'Backdoor Access' to its product users; and, (3) resulted, in the Government's (*associated*) ability to access data in '*Real Time*' on the World Wide Web (improving National Security).

29. Apple, Google, IBM, Microsoft, SAP, Fiserv, Samsung and other Defendants are each dominant suppliers of Web applications displayed on a Web browser in IoT devices and have excluded competitors and harmed competition through a set of interrelated practices:

30. Apple entered into exclusive dealing arrangements with IBM, a particularly important Web application provider/developer and with SAP. Defendants' predatory

³ While the above court decision disclosed that as far back as 1996, Microsoft monopolized the domestic market and was indifferent to its antitrust corporate objective [Quashing competition.]; noticing, also the shift from 'Browsing Competition' to 'Licensing Antitrust' objective with its competitors [IBM, Apple, and Local Competitors.] disadvantaged; disclosing, further, Microsoft's concession(s) to share license distribution(s) with its major competitors. What the court did not know (*or find*), was how Microsoft was able to dominate competition by its (*unprecedented*) software licensed products, post Windows 95. Product upgrades [*Revolutionized by.*] affording '**REAL TIME**' Web transactions from Web applications made possible by 'Breach of the Non-Disclosure Agreement' signed by Microsoft's CTO Gordon Bell, with Plaintiff and her company WebXchange, Inc., and thereafter, engaged in Patent Infringement of Dr. Arunachalam's '*VAN SWITCH INVENTION*' patented in 1995 [Protected by Public Contract Grant '*PROSECUTION HISTORY ESTOPPEL*' and the '**MANDATED PROHIBITION**' from rescinding the Public Contract Grant [Delineated in *Fletcher v. Peck*, 10 U.S. 87 (1810)].

⁴ Corrupting the Courts and processes: At the onset (after infringement), Judges and USPTO/PTAB Administrative Judges started to invest in stock in the collusive corporations. It is little wonder why some Judges (*vested-ly interested*) would not recuse from ancillary cases relating to this complaint.

⁵ Remaining silent (*as to the stolen, unlicensed, infringed product(s)*), as (Public) Fraud.

1 anticompetitive conduct, reminiscent of Microsoft, has already been adjudicated in *U.S. v.*
 2 *Microsoft* antitrust case. *The table below applies equally to Samsung.*

3
 4 **F. SIMILARITIES BETWEEN APPLE & MICROSOFT'S ANTI-COMPETITIVE CONDUCT**
 5 **(DOMESTIC ANTITRUST IN COHORT FOR GLOBAL ANTITRUST REENTERING VIA**
 6 **APPLE IN FURTHERANCE LIMITING DOMESTIC COMPETITION WITHOUT NOTICE.)**

Apple	Microsoft
TYING: of Apple's IoT devices and iOS operating system to Web applications displayed on a Web browser in Apple's App Store	TYING: of Microsoft's Internet browser to Windows 95/98 in the mid-90's
There are two relevant product markets: The market for IoT devices, eg, iPhones; and, The market for Web applications displayed on a Web browser.	There are two relevant product markets: The market for personal computer operating systems; and, The market for Internet browsers.
Apple's attempt to divide the Web applications market and induce Web application providers not to compete.	Microsoft's attempt to divide the browser market and induce Netscape not to compete.
The competitive threat that Web applications pose to Apple's iOS operating system.	The competitive threat that browsers pose to the Windows operating system.
Apple's exclusionary agreement with Web application developers and Web applications displayed on a Web browser.	Microsoft's exclusionary agreement with Internet Service Providers and on-line services.
Apple's contractual restrictions on Web application developers.	Microsoft's contractual restrictions on OEM modification or customization of pc boot-up sequence and pc screens.

21
 22 31. Apple withholds entry/presence of a Web application provider into its Apple App
 23 Store unless a Web application provider accepts the terms preferred and dictated by Apple, to
 24 retain its monopoly over IoT device and Web applications' markets. This hampered their
 25 development into effective competitors. Apple's conduct has harmed competition and the
 26 competitive process. *This scenario is true for Samsung and other Defendants as well.*
 27
 28

VI. UNLAWFUL AND UNFAIR ACTS OF DEFENDANTS

**VI.A) DEFENDANTS MEET ALL THE ELEMENTS OF ANTITRUST VIOLATION:
CONSPIRING TO FIX PRICES AND CONTROL ACCESS TO PLAINTIFF'S
CODE AND MARKET:**

- 1. (i) CONSPIRACY AMONG ECLIPSE FOUNDATION MEMBERS AND CPL LICENSE AGREEMENT, IBM AS AGREEMENT STEWARD (PRINCIPAL CONSPIRATOR) ARE IN VIOLATION OF SHERMAN ACT SECTIONS 1 & 2:**

(ii) APP STORE AND GOOGLE PLAY EVIDENCE CONSPIRACY BETWEEN APPLE AND GOOGLE WITH THEIR RESPECTIVE WEB APP PROVIDERS AND ARE VIOLATIONS OF SHERMAN ACT SECTIONS 1 AND 2:

32. 1.A.) Defendants *conspired* to control prices, violating at least Section 1 of the Sherman Act, 15 U.S.C. § 1, per se violation, by engaging in anti-competitive conduct and violations of Antitrust laws and ‘ancillary processes.’ The *conspiracy* between Apple, Google, Samsung, IBM, SAP, Microsoft, Fiserv and other Defendants was *knowingly formed* (corruptly associated-in-fact). (i) The Eclipse Foundation was formed by IBM, SAP as founding board members, with IBM and SAP contributing \$40 M each as per their own SEC Reports and was in existence at or about the time alleged. (ii) The *conspiracy* between Apple with Defendants in its App Store concealing from consumers that the Web applications are unlicensed stolen goods is in violation of Antitrust laws. Likewise true for Samsung and Google.

33. **1.B.)** Defendants Apple, Samsung, IBM, SAP, JPMorgan, Citi, Fiserv, Microsoft, Google, Facebook (to name a few of the 191 Eclipse members in 2008) *knowingly joined the conspiracy* in (i) each of the app stores and (ii) in The Eclipse Foundation (prove common knowledge of infringed product example). The Executive Branch of the United States helped form the Eclipse Foundation. Incidentally Professor James P. Chandler (“Chandler”), who was

1 IBM's external counsel and also an Advisor to the United States, and Dave Kappos, who was
 2 IBM's internal patent counsel, knowingly joined the conspiracy.

3 34. EVIDENCE OF THE CONSPIRACY ABOUNDS. IBM created The Eclipse Foundation [in
 4 corrupt association with its members and the 'National Infrastructure Assurance Counsel' [now,
 5 Advisory Counsel] [See EXHIBIT 2: Transcript of Kelley Clements, Executive Assistant to
 6 Chandler, Stenographer's Notebook, 8/30/2002.] to initiate a corrupt enterprise for the sole
 7 purpose of monopolizing the market for Plaintiff's Web applications displayed on a Web
 8 browser and Plaintiff's "The Internet of Things (IoT)," — examples of Web applications are
 9 Web banking, social networking — market capitalization of the social networking industry
 10 [currently estimated at \$2.8 trillion.] and market capitalization of Web applications displayed on
 11 a Web browser and the IoT [currently estimated at \$12.6 trillion, expected to grow to \$14.4
 12 trillion in 2022.] — operating as the Technical Front/Business Feeder for the Advisory
 13 Counsel; operating, as the "Business Feeder" [under color of a public/private enterprise assisting
 14 Government in improving National Security]. Specifically, Eclipse was required to [overtly act.]
 15 exploit two USPTO programs [successfully.] needed to achieve the object sought; gaining,
 16 lawful access to them for unlawful use [in furtherance of the conspiracy; by, inducing the public
 17 to accept their 'Open Source' (deceitfully obtained) COPYRIGHT by the masses; subsequently,
 18 attaching their own Common Public License to it. Eclipse [necessarily.], focused on Plaintiff's
 19 intellectual property on Web applications displayed on a Web browser. Given away freely under
 20 their (corrupted) COPYRIGHT; requiring, concealment *coloring* of Plaintiff's code, intellectual
 21 property and value-added network service-oriented architecture protocol for Web applications
 22 displayed on a Web browser; disguised, and fraudulently misrepresented as a '*Program*
 23 *Copyright*' activity inconsistent with legitimate intent; propounded, to (and granted by) the
 24
 25
 26
 27
 28

1 USPTO [crimes too small to be recognized as crimes by the USPTO]. Initially, unwitting
2 victims; and, subsequently, as witting participants in breach of contract on Patent Grant and duty
3 to uphold its 'Patent Prosecution History Estoppel' [to avoid paying royalties and notice of their
4 conspiracy]. Compromising the USPTO's mission as well as the Court's credibility by sharing
5 in the criminal antitrust Defendants' enterprises' collective profits [from Defendants' app stores
6 and monopolizing Web applications unlicensed and stolen from Plaintiff.] by investment
7 opportunities for Judges; gained, from the monopoly; and, rewards to its members [amounting
8 to a lawful [under color of law and authority.] antitrust operation.]
9

10
11 35. This corrupt organization could never have started without Plaintiff's intellectual
12 property and theft and concealment of Plaintiff's trade secrets under color of a Copyright
13 (admittedly) taken and used by Eclipse and its Members. Allowed to stand before this Court
14 (admittedly) with 'unjust enrichment' seeking justice; is, overshadowed only by the USPTO and
15 Courts' refusal to enforce the 'Law of the Land' (Constitutional *res judicata*) decision by U.S.
16 Supreme Court Chief Justice Marshall in *Fletcher v. Peck*, 10 U.S. 87 (1810), respecting
17 Government awarded grants. This Court can put an end to it all here today! By upholding the
18 Law of the Land; and ordering Defendants to pay for the deceitful use of Plaintiff's inventions
19 (forthwith); along, with punitive damages for creating and participating in the corrupt
20 association; with, the unjust enrichment made over the (lawless) years they have been operating
21 their unlawful enterprise(s) and app stores, violating Antitrust laws.
22
23

24 36. The anti-competitive unlawful acts committed by Defendants alleged here cluster
25 around at least conspiracy by, between and among the Defendants to fix the prices of Web
26 applications displayed on a Web browser, constituting an "unreasonable" restraint on interstate
27 commerce; the Defendants' business activities had a substantial effect on interstate commerce
28

1 and the Defendants' challenged activities involve a substantial amount of interstate commerce;
 2 and the Plaintiff suffered injury in its business or property as a proximate result of the
 3 combination or conspiracy: Defendants' conspiracy to deprive Plaintiff of her fundamental
 4 rights; defraud the Government, which is a federal offense; manipulate a Government program to
 5 make it non-effective, which is a federal offense; undermine at least two Government agencies;
 6 undermine public interests so that no one is protected any more; have the USPTO/PTAB
 7 quashing Plaintiff's patents; deprive Plaintiff of patent rights by sabotaging the object and
 8 mission of the USPTO and even the courts enforcing the law; engage in manipulation, public
 9 corruption; violate civil rights of Plaintiff; deny Plaintiff Due Process; filing false documents by
 10 Defendants and Incidentals George Pazuniak, U.S. Attorney Claire T. Cormier, which is a
 11 federal offense, aided and abetted by Incidentals Davila and Eric M. Davis; trafficking in certain
 12 goods bearing counterfeit marks; tampering with a Federal Witness as by SAP with Marvin
 13 Sirbu and JPMorgan with Ms. Spielman; **interstate and (international) transportation of**
 14 **stolen property (Apple from China and Samsung from Vietnam) and obstruction of justice.**

15
 16
 17
 18 See 18 U.S.C. §§1341, 1344, 2319-2320, 1512-1513, 2315, 1503, 1510-1511, 1581-1588. Other
 19 acts of anti-competitive misconduct, although *appearing* to be isolated events, were actually part
 20 of the overall conspiracy and *pattern of Antitrust conspiratorial activity* alleged herein.
 21

22 37. The primary objective of the Antitrust conspiratorial *enterprise* has been to
 23 control the Web applications and IoT market and to eliminate competition in Antitrust violation,
 24 even at the cost of inflicting severe and sustained economic hardship upon Plaintiff, with the
 25 intent of impairing and obstructing Plaintiff from exercising her fundamental rights and access
 26 to justice and the courts.
 27

1 38. Evidence of conspiracy with unity of purpose among competitors and a
 2 common commitment to OPEN SOURCE is clear as seen from the header files from the early
 3 Eclipse source code all marked “IBM Copyright” with code stolen from Plaintiff and others.
 4

5 IBM / The Eclipse Foundation
 Version 2.0.1 Source Code, August 29, 2002
<http://archive.eclipse.org/eclipse/downloads/drops/R-2.0.1-200208291828/>
 Copyright Notice: <http://www.eclipse.org/legal/cpl-v05.html>
 "Common Public License Version 0.5"

6
 7 d) Each Contributor represents that to its
 knowledge it has sufficient copyright rights
 8 in its Contribution, if any, to grant the
 9 copyright license set forth in this Agreement.

10 **Update on Technology PMC: Eclipse Research Fellowship and University
 Programs.**

11 The Eclipse Technology PMC leader, Brian Barry, lead the discussion of this project. This
 12 project is starting with an initial funding by IBM. There are 12 projects from all over the world.

13 39. 1.C.) The charged *conspiracy* substantially affected interstate and foreign
 14 commerce and occurred within the flow of interstate and foreign commerce. Evidence is
 15 provided by Apple, Samsung in their own SEC Reports of interstate and (international)
 16 transportation of IoT devices with Web applications (unlicensed stolen property) pre-
 17 installed (for instance, Apple from China and Samsung from Vietnam).

18 40. 1.D.) The anti-competitive acts committed by Defendants include the following:

19 41. 1.D.1.) In 2001, at the same time as the founding of The IBM Eclipse Foundation
 20 by the Executive Branch of the USA, IBM, SAP and others, Delaware District Court Judge Sue
 21 L. Robinson and Jan Horbaly, the Clerk of the Federal Circuit, redefined “financial interests”
 22 contrary to the IRS definition of the term, to suit judges to have financial holdings in litigants
 23 and not recuse. IBM stock is held by at least U.S. Supreme Court Justice Breyer, who did not
 24 recuse from Plaintiff’s cases at the Supreme Court.
 25
 26
 27
 28

1 **2. IBM AND CPL LICENSE AGREEMENT STEWARD TO CONTROL**
2 **DISTRIBUTION — DEFENDANTS' FRAUDULENT COMMON PUBLIC**
3 **LICENSE (“AGREEMENT”) IS FURTHER PROOF OF THEIR CONSPIRACY**

4 **42. Common Public License Version 0.5 (See Exhibit 1).**

5 6/24/2015 Common Public License Version 0.5
6 <http://www.eclipse.org/legal/cpl-v05.html> 6/6

- 7 - **THE COMMON PUBLIC LICENSE IS A CONTRACT THAT VIOLATES**
8 **SECTIONS 1 AND 2 OF THE SHERMAN ANTITRUST ACT.**
9 - **LIKEWISE, THE AGREEMENT BETWEEN APPLE AND GOOGLE WITH**
10 **THEIR RESPECTIVE APP STORE AND GOOGLE PLAY WEB APP**
11 **PROVIDERS ARE EACH A CONTRACT IN VIOLATION OF SECTIONS 1**
12 **AND 2 OF THE SHERMAN ANTITRUST ACT.**

13 **15 U.S. Code § 1** states: “Every contract, combination in the form of trust or otherwise,
14 or conspiracy, in restraint of trade or commerce among the several States, or with foreign
15 nations, is declared to be illegal. Every person who shall make any contract or engage in any
16 combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and,
17 on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or,
18 if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said
19 punishments, in the discretion of the court.” **Section 2 of the Sherman Act** makes it unlawful for
20 any person to "monopolize, or attempt to monopolize, or combine or conspire with any other
21 person or persons, to monopolize any part of the trade or commerce among the several States, or
22 with foreign nations" **15 U.S. Code § 2 - Monopolizing trade a felony; penalty.**

23 **43.** The fraudulent Common Public License Agreement grants Plaintiff's Rights to
24 Recipients **[DOES 1-100]**, a royalty free copyright license to Contributor's **[Stolen.]** source
25 code and object code, without disclosing that the original Contributor is Plaintiff and a royalty-
26 free patent license under Plaintiff's Licensed Patents to make, use, sell, offer to sell, import and
27 28

1 otherwise transfer the Contributor's [Stolen.] source code and object code. Each Defendant
 2 fraudulently represents that to its knowledge it has sufficient copyright rights to grant the
 3 colored copyright license set forth in the fraudulent CPL Agreement, [herein giving away
 4 Plaintiff's patents, code and IP for free under color of a copyright.] The object of the conspiracy
 5 was to deprive Plaintiff of any profits. "When the Program is made available in source code
 6 form: ...a copy of this [fraudulent] Agreement must be included with each copy of the Program.
 7 Contributors may not remove or alter any copyright notices contained within the Program."
 8 "...The Program is provided on an "as is" [Stolen.] basis, ...the Agreement is copyrighted and
 9 may only be modified in the following manner: The Agreement Steward [principal
 10 conspirator.] reserves the right to publish new versions (including revisions) of this Agreement
 11 [in furtherance of Defendants' deprivation of Plaintiff's rights]. No one other than the
 12 Agreement Steward has the right to modify this Agreement. IBM [herein admits that IBM is
 13 the principal conspirator.] is the initial Agreement Steward. IBM may assign the responsibility
 14 to serve as the Agreement Steward to a suitable [co-conspirator.] separate entity [associated-in-
 15 fact.]. Each new version of the Agreement will be given a distinguishing version number." [to
 16 continue to avoid notice of Plaintiff's patent.]

20 44. **1.D.2.) Under CPL (Common Public License) Agreement Version 0.5, the very**
 21 agreement is copyrighted and may *only be modified* in the following manner:

23 **"The Agreement Steward** reserves the right to publish new versions (including
 24 revisions) of this Agreement from time to time. **No one other than The Agreement**
Steward has the right to modify this Agreement. IBM is the initial agreement
steward. IBM may assign the responsibility to serve as the Agreement Steward
to a suitable separate entity."

26 **"2. Grant of Rights**

- 27 a) Subject to the terms of this Agreement, each Contributor hereby grants Recipient
 28 a nonexclusive, worldwide, **royalty-free copyright license to reproduce,**

1 **prepare derivative works of publicly display, publicly perform, distribute**
 2 **and sublicense the Contribution of such Contributor, if any, and such**
 3 **derivative works, in source code and object code form.”**

- 4
- 5
- 6
- 7 b) “Subject to the terms of this Agreement, each **Contributor hereby grants**
 8 **Recipient a nonexclusive, worldwide, royalty-free patent license under**
 9 **Licensed Patents to make, use, sell, offer to sell, import and otherwise**
 10 **transfer the Contribution of such Contributor, if any, in source code and**
 11 **object code form.”**

12

13 **“For example, if a third party patent license is required to allow Recipient to**
 14 **distribute the Program, it is Recipient’s responsibility to acquire that license**
 15 **before distributing the Program.”**

16

17 **“Each Contributor represents that to its knowledge it has sufficient**
 18 **copyright rights in its Contribution, if any, to grant the copyright license set**
 19 **forth in this Agreement.”**

20

21 45. 1.D.3.) PRICE FIXING, BID-RIGGING BY ANTITRUST CONSPIRACY

22

23 between Apple, IBM, Google, Samsung, SAP, JPMorgan and other Eclipse Foundation
 24 members in collusion **with Intent to Injure U.S. and Foreign Competitors** (Operating as a front
 25 for users to participate in controlling the infringed license by active inducement where the courts
 26 can find as circumstantial evidence.): The conspiracy comprises an agreement, namely, CPL
 27 Version 0.5, between the members of the Eclipse Foundation, who are all Plaintiff’s competitors,
 28 for the purpose or with the effect of unreasonably restraining trade. For example, **IBM is the**
 1 **Agreement Steward for CPL Version 0.5, and controls the market by prohibiting anyone**
 2 **from modifying CPL Version 0.5.** IBM also has restricted free trade by giving away **free**
 3 **copyright licenses and patent licenses to members of the Eclipse Foundation, to Plaintiff’s**
 4 **intellectual property/software/patents. In the conspiracy, IBM and SAP are engaging in price**
 5 **fixing as they are giving away a Third party’s IP/software (namely, Plaintiff’s) for free,**
 6 **thereby killing competition and making it impossible for Plaintiff to sell Plaintiff’s**
 7 **IP/software against a giant corporation in conspiracy with other giant corporations,**

1 including the USPTO/PTAB and the courts engaged in unfair trade practices. *The agreement*
 2 *itself, CPL Version 0.5, constitutes the antitrust offense.*

3 **46. 1.D.4.) EVIDENCE OF INTENT:** *CPL Version 0.5 is in itself proof of the*
 4 *existence of a price-fixing agreement* and is sufficient to establish *intent* to do what Defendants
 5 agreed among themselves to do.

6 **47. 1.D.5.) EVIDENCE OF COMMON UNLAWFUL PURPOSE:** CPL Version
 7 0.5 constitutes a mutual understanding that Defendants have combined their efforts for *a*
 8 *common, unlawful purpose*, as they have done in the instant case. For example, Defendants
 9 withheld material facts from the courts and the PTAB, *(i)* to not consider the entire record, patent
 10 prosecution history estoppel, which readily evidences that the claim terms ruled indefinite by
 11 Incidental, Judge Robinson are *clearly* defined both in the specification and in the file history;
 12 *(ii)* to not impose the burden of proof upon the infringers/Defendants to provide at least a
 13 preponderance of evidence or clear and convincing evidence of falsely alleged invalidity of
 14 patent claims; *(iii)* to not uphold U.S. Supreme Court Chief Justice Marshall's '*First Impression*'
 15 ruling in *Fletcher v. Peck* 10 U.S. 87 (1810) which prohibits rescinding patent contract grants by
 16 the most absolute power, in breach of solemn oaths of office to not abide by the Law of the
 17 Land; *and*, *(iv)* not reversing their erroneous rulings in Plaintiff's cases, as per the Federal
 18 Circuit's recent 10/4/17 ruling in *Aqua Products, Inc. v. Matal*, Case No. 15-1177, which
 19 reverses any decision by the PTAB or Courts, that failed to consider the entire record, patent
 20 prosecution history, and failed to require the Defendants to provide even a preponderance of
 21 evidence, let alone, clear and convincing evidence of patent invalidity.

22 **48. 1.D.6.) Knowingly Joined the Conspiracy:** Defendants joined the conspiracy
 23 with the intent to assist or advance the object or purpose of the conspiracy. IBM knowingly

1 directed all the members of the Eclipse Foundation to participate in the conspiracy as the
 2 Agreement Steward and Board Member responsible for the conduct he directed just as if he
 3 directly participated in the conduct. IBM and other members of the Eclipse Foundation joined a
 4 conspiracy, IBM and/or other members are presumed to remain members of the conspiracy
 5 until the conspiracy has been completed or abandoned or until IBM and/or other members have
 6 withdrawn from the conspiracy. It is 'First Impression Knowledge' that withdrawing from a
 7 conspiracy does not void applicable liability to its fullest extent.

9 49. **1.D.7.) Per Se Rule:** Price fixing by Defendants, IBM, Microsoft and SAP and
 10 members of the Eclipse Foundation is an antitrust offense that is considered a **per se**
 11 **unreasonable restraint of trade.** The courts have reasoned that this practice, which invariably
 12 has the effect of raising prices to consumers, has no legitimate justification and lacks any
 13 redeeming competitive purpose and should, therefore, be considered unlawful **without any**
 14 **further analysis of its reasonableness, economic justification, or other factors.** For most
 15 other antitrust offenses, the courts have established an analytical approach labeled the "Rule of
 16 Reason." Under the Rule of Reason, the courts must undertake an extensive evidentiary study of
 17 (1) whether the practice in question in fact is likely to have a significant anticompetitive effect in
 18 a relevant market and (2) whether there are any procompetitive justifications relating to the
 19 restraint. Under the Rule of Reason, if any anticompetitive harm would be outweighed by the
 20 practice's procompetitive effects, the practice is not unlawful. *Defendants cannot claim this, by*
 21 *their obvious non-compliance.*

25 50. **Apple's and Samsung's Other Per Se Violations of the Sherman Act:**
 26 Evidence of horizontal customer allocation and territorial allocation agreements by Apple and
 27 Samsung with IBM and other Eclipse Foundation members and entering into exclusionary
 28

1 agreements with Web application developers, are per se illegal agreements among competitors
2 that have been detected. *See CPL License, infra.* These are antitrust violations by Apple,
3 Samsung, IBM and other Eclipse Foundation members and all Defendants.
4

5 51. **Horizontal customer allocation** is an agreement among competitors at the same
6 level of distribution of a product or service that each will service certain designated customers or
7 classes of customers, for example, restricting it to sale to customers via Apple's App Store only
8 and will not attempt to compete by selling to those customers directly via the Web application
9 developers' own websites, or will limit the manner in which they will compete, for the business
10 of customers allocated to a competitor. *This is true for Samsung as well.*
11

12 52. **Horizontal territorial allocation** is an agreement among competitors at the same
13 level of distribution of a product or service to solicit or service customers only within a certain
14 geographic area, for example, restricting it to sale via Apple's App Store only and not via the
15 Web application developers' websites. The competitors who agree to this type of arrangement
16 agreed with Apple to reject business from customers in another's territory. Both customer and
17 territorial allocation schemes result in an absence of competition in prices and choice of products
18 for the affected customers. *This is similar for Samsung as well*
19

20 53. **1.D.8.) Interstate and Foreign Trade and Commerce:** The restraint has been
21 shown by Plaintiff to be in the flow of, or to affect, interstate and foreign trade and commerce.
22 For interstate commerce, this test is ordinarily satisfied by demonstrating that products involved
23 in the case were shipped across state lines, for example, IoT devices with Web applications in
24 app stores, that services involved interstate activities, or that significant federal funding was
25 involved. For foreign commerce, this test can be satisfied by showing that **the conduct involved**
26 **import trade or import commerce**. This element is clearly met by Defendants, as shown *infra*,
27
28

1 of imports from China, Vietnam and sale within the U.S by Apple, Samsung. *See* Plaintiff's
 2 USITC Case No. 337-1094, for evidence submitted and available right from Defendants'
 3 websites, SEC Reports, and product wrappers and receipts of purchase.
 4

54. **1.D.9.) Single Versus Multiple Conspiracies:** Defendants' illicit activity of
 5 offering Web applications without a license as Antitrust racketeering unlawful acts and harm to
 6 Plaintiff has been an ongoing, continuous conspiracy, continuing unabated. *See infra* about
 7 Eclipse Foundation.
 8

55. **1.D.10.) UNDISPUTED FACTS:** IBM signed NDAs with Plaintiff and her
 10 companies in 1995, 2001, 2003 and stole Plaintiff's software and gave free copyright licenses to
 11 the stolen code from Plaintiff and her companies and free patent licenses via CPL (*supra*), and
 12 offered to buy her patents in 2006, which Plaintiff turned down. IBM gave Plaintiff and her
 13 companies free office space in 1994 and 2005. Gordon Bell, the CTO of Microsoft, signed an
 14 NDA with Plaintiff's company in 1996, and then Microsoft came out with a patent application
 15 for SOAP (a copy of Plaintiff's object routing protocols) in 1997; whereas Plaintiff's patents
 16 were filed in 1995, two years earlier; and then Microsoft offered to buy Plaintiff's patents in
 17 2004/2005, which Plaintiff turned down. SAP signed NDAs with Plaintiff's company in 2003
 18 and then offered to buy her patents for \$100M.
 19

20
 21 56. It is clear all Defendants meet all the elements of violation of the Sherman Act,
 22 Secs 1 & 2.
 23

24
 25 57. As Plaintiff poses a threat to Defendants' monopoly in the market for IoT and
Web applications displayed on a Web browser, they conspired to kill Plaintiff's patents in the
courts and PTAB. By not killing Plaintiff's patents, this would have substantially reduced the
 26 dominance of IBM's Web application platform and Defendants' app stores. Defendants
 27
 28

1 prevented and excluded competition and frustrated the efforts of other companies such as
 2 Plaintiff's companies and those of other inventors to compete for customers in the relevant
 3 market. They used anti-competitive means to achieve their goals. Their conduct of withholding
 4 material facts of patent prosecution history estoppel, Fletcher and Aqua Products, Inc. to kill
 5 Plaintiff's patents and those of other inventors does not provide any benefits to consumers and
 6 is against public interest. They had no legitimate business reason for not upholding *Fletcher* or
 7 *Aqua Products* or Patent Prosecution History Estoppel. Defendants' refusal to cooperate with
 8 rivals constitutes anti-competitive conduct. They engaged in deceptive conduct, reasonably relied
 9 upon by a competitor, namely, Plaintiff, that has the purpose and effect of preventing a
 10 competitor from developing in a timely manner a product that would enhance competition by
 11 threatening a monopolist's monopoly power in the IoT and Web applications market.
 12

13 58. Their anti-competitive conspiratorial racketeering misconduct caused damage to
 14 Plaintiff and killed her company and those of other inventors. They damaged Plaintiff at the
 15 PTAB and courts by not upholding *Fletcher, Aqua Products, Inc.*, and Patent Prosecution
 16 History Estoppel and Section 282 of the Patent Act. Had they not done that, Plaintiff would have
 17 been the largest technology company in the world. They engaged in anti-competitive conduct by
 18 all the things they did in the courts and PTAB. Anti-competitive conduct that damaged Plaintiff
 19 was reasonably capable of significantly contributing to IBM, Apple, Google, Samsung and other
 20 Defendants maintaining monopoly in the IoT market. The Eclipse Foundation was set up as a
 21 non-profit, yet Defendants continue to make trillions of dollars from Plaintiff's inventions. This
 22 is truly a farce and a money-laundering scheme, run under the color of a non-profit, to avoid
 23 investigation and obstruct justice. This is an element of white collar crime.
 24

1 59. The law provides that Plaintiff should be fairly compensated for all damages to
 2 Plaintiff's business or property and physical health that were a direct result or consequence of
 3 their conduct.

4
 5 This Court now has the opportunity to equitably quash Defendants' antitrust scheme in
 6 the public's best interest without restriction.

7
 8 **3. ECLIPSE FOUNDATION MEMBERS DEMONSTRATE IRRATIONAL
 COORDINATED ACTION, CONFIRMING THEIR CONSPIRACY AND
 INTENT TO INJURE U.S. AND FOREIGN COMPETITORS, SHARE EDITING
 THE ECLIPSE CODE**

9
 10 A) **THE IBM ECLIPSE FOUNDATION: (i) ACQUISITION AND
 MAINTENANCE OF AN INTEREST IN AND CONTROL OF AN
 ENTERPRISE ENGAGED IN A PATTERN OF RACKETEERING
 ACTIVITY AND (ii) CONSPIRACY TO ENGAGE IN A PATTERN
 OF ANTITRUST RACKETEERING ACTIVITY, AS ANTI-
 COMPETITIVE CONDUCT AND VIOLATIONS OF ANTITRUST
 LAWS**

11
 12 60. At various times and places enumerated by Plaintiff *supra and infra*, Defendants
 13 and DOES 1-100 acquired and/or maintained, directly or indirectly, an interest in or control of
 14 and associated with The IBM Eclipse Foundation, an Antitrust racketeering *enterprise* of
 15 individuals who were associated-in-fact and who engaged in, and whose activities affected,
 16 interstate and foreign commerce, and conducted and/or participated, either directly or indirectly,
 17 in the conduct of the said *enterprise*, namely, The IBM Eclipse Foundation's affairs through a
 18 pattern of Antitrust racketeering activity, and conspired to (i) acquire and maintain an interest in
 19 and (ii) conduct and participate in said Antitrust racketeering *enterprise* engaged in a pattern of
 20 antitrust racketeering activity and through a pattern of racketeering activity, all in violation of 18
 21 U.S.C. §§ 1961(4), (5), (9), and 1962(b), (c) and (d) and the Sherman Act.

22
 23 61. IBM and SAP invested monies in the creation of the IBM Eclipse Foundation and
 24 acquired an "interest" in the Antitrust Enterprise, the IBM Eclipse Foundation. IBM and SAP

are founding members and members of the Board of Directors from the beginning. Defendants controlled the selection of the Board of Directors and have ongoing control of the Eclipse Common Public License, with IBM as the License Agreement Steward. The Common Public License states:

“No one other than the Agreement Steward has the right to modify this Agreement. IBM is the initial Agreement Steward. IBM may assign the responsibility to serve as the Agreement Steward to a suitable separate entity.”

62. IBM, SAP and JPMorgan (Apple, Samsung, Facebook, Google, Wells Fargo, Fiserv are members) acquired a controlling or other interest in managing and operating the affairs of The IBM Eclipse Foundation. IBM admits it invested \$40M in creating The IBM Eclipse Foundation. IBM's 2001 Annual Report highlights its founding role in The Eclipse Foundation. IBM 2001 Annual Report to Shareholders, p. 21 ("No. 5 - We fought for an open world. THE END OF PROPRIETARY COMPUTING AT IBM... We donated more than \$40 million in application development tools to a new, independent, open-source software community called Eclipse.") <ftp://public.dhe.ibm.com/annualreport/2001/ibm2001.pdf#page=21>

**WE DONATED MORE THAN \$40 MILLION IN
APPLICATION DEVELOPMENT TOOLS TO A NEW, INDEPENDENT, OPEN-SOURCE
SOFTWARE COMMUNITY CALLED ECLIPSE**

Figure: IBM 2001 Annual Report to Shareholders: "No. 5 - We fought for an open world. THE END OF PROPRIETARY COMPUTING AT IBM... We donated more than \$40 million in application development tools to a new, independent, open-source software community called Eclipse." PDF p. 21 of 112 pgs.

63. JPMorgan invested funds in order to create The IBM Eclipse Foundation, maintains membership in it and was the first showcase system of the Eclipse code.

1 64. Evidence of IBM's, SAP's and JPMorgan's hijacking role in The IBM Eclipse
 2 Foundation —IBM as the “**Initial Agreement Steward**”— with total control over modifications
 3 (that no other than the Agreement Steward has the right to modify the CPL Common Public
 4 License 0.5 of the Eclipse code) is *prima facie* evidence of IBM's leadership role in The IBM
 5 Eclipse Foundation. SAP as a founding Board member and JPMorgan as the first showcase
 6 system of the Eclipse code, endorsed IBM's leadership, which is a matter of public record,
 7 subject to judicial notice. *King v. Baldino*, 648 F. Supp. 2d 609, 615-616 (D. Del. 2009). The
 8 following facts are material to this case:
 9

10 B) **ECLIPSE FOUNDATION COMMON PUBLIC LICENSE 0.5:**

11 “...to publish new versions (including revisions) of
 12 this Agreement from time to time. No other than the
 13 Agreement Steward has the right to modify this Agreement.
 14 **IBM is the Initial Agreement Steward.** IBM may assign
 15 the
 16 Source: <http://www.eclipse.org/legal/cpl-v05.html>

17 65. This and other references to IBM in the Common Public License 0.5 are provided
 18 below (highlighted emphasis added):

19 to publish new versions (including revisions) of this
 20 Agreement from time to time. No one other than the
 21 Agreement Steward has the right to modify this Agreement.
 22 **IBM** is the initial Agreement Steward. IBM may assign the
 23
 24 Source: <http://www.eclipse.org/legal/cpl-v05.html>

25 **Current Issues before the Committee**

- CPL license update

26 New members and end-customers have recommended changes to CPL Section 7.
 27 Changes are in progress with CPL license steward (**IBM**) to create an EPL (Eclipse
 28 Public License) that will contain substantive changes to Section 7 of the CPL. These
 29 changes will require re-submitting Eclipse contributions under the new license. License
 30 creation, license language and license stewardship will be submitted for approval as an e-
 31 vote to board stewards in the next 30-60 days.

1 • IT infrastructure migration

2 The Board discussed the requirement to migrate the current web site infrastructure from
3 its current IBM hosting facility. The key points discussed included:

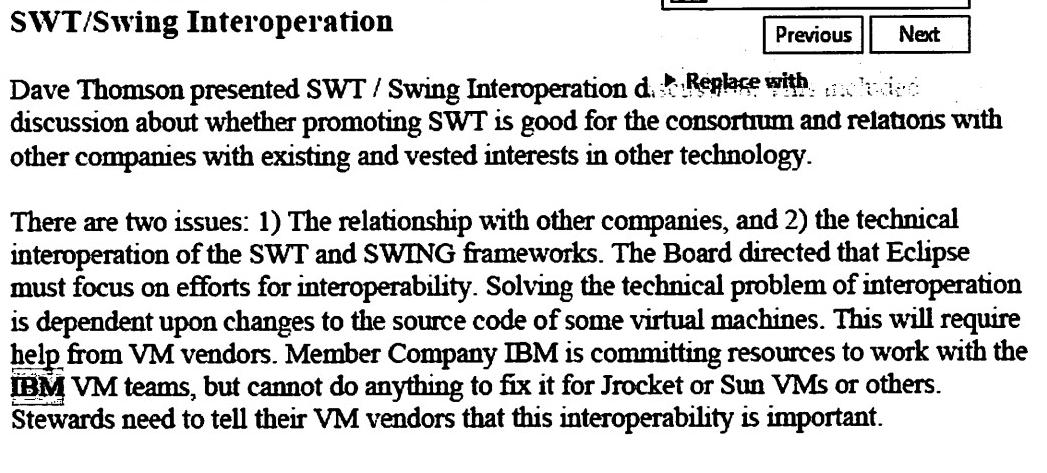
4 the current bandwidth is insufficient and needs to be expanded

- 5 • Plan for migrating the Eclipse website from the current IBM infrastructure to one
6 which is managed directly by Eclipse.
7 • Establish the Eclipse administrative systems such as banking, invoicing, payroll,
8 etc.

9 The project is addressing some current issues. The code is still not in the Eclipse CVS
10 yet. Source is included as downloads, and development is being done on a separate site
11 with shadowing of source in external repositories. There are currently only IBM
12 committers.

- 13 However, in the short term, this will be cause quite a bit of work.
14 ◦ Eclipse requires its own web infrastructure, and a project to migrate it from its current
15 IBM home will commence ASAP.

16 In the future, the eclipse.org website will support two distinct zones: one for the open

17 
SWT/Swing Interoperation

18 Previous Next

19 Dave Thomson presented SWT / Swing Interoperation data. Replace with included
20 discussion about whether promoting SWT is good for the consortium and relations with
21 other companies with existing and vested interests in other technology.

22 There are two issues: 1) The relationship with other companies, and 2) the technical
23 interoperation of the SWT and SWING frameworks. The Board directed that Eclipse
24 must focus on efforts for interoperability. Solving the technical problem of interoperability
25 is dependent upon changes to the source code of some virtual machines. This will require
26 help from VM vendors. Member Company IBM is committing resources to work with the
27 IBM VM teams, but cannot do anything to fix it for Jrocket or Sun VMs or others.
28 Stewards need to tell their VM vendors that this interoperability is important.

29 **Meeting Minutes of The IBM Eclipse Foundation, September 5, 2002:**

30 66. The following references to IBM, JPMorgan, SAP in the IBM Eclipse Foundation

31 Meeting Minutes from September 5, 2002 include (highlighted emphasis added):

1 **Update on Technology PMC: Eclipse Research Fellowship and University**
2 **Programs.**

3 The Eclipse Technology PMC leader, Brian Barry, lead the discussion of this project. This
4 project is starting with an initial funding by IBM. There are 12 projects from all over the world.
5 The hope and expectation is other companies will also provide funding as we move forward.
6 Because it is a technology project no Board approval is necessary.

- 7 • October 4th - version 1.0.1

8 The GEF Contributions are:

- 9 • All IBM committers

- 10 • Taking over responsibility and management for the Eclipse.org website. Our
11 infrastructure is currently hosted and managed by IBM. Migrating to an EMO-managed
12 location is a prerequisite to making any major investments (both software and hardware)
13 to improve the site. In the interim, the currently dedicated IBM staff will make whatever
14 incremental improvements which can reasonably done.

- 15 However, in the short term, this will be still be quite minimal.
- 16 • Eclipse requires its own web infrastructure, and a project to migrate it from its current
17 IBM home will commence ASAP.

18 *In the future, the eclipse.org website will support two distinct zones: one for the open*

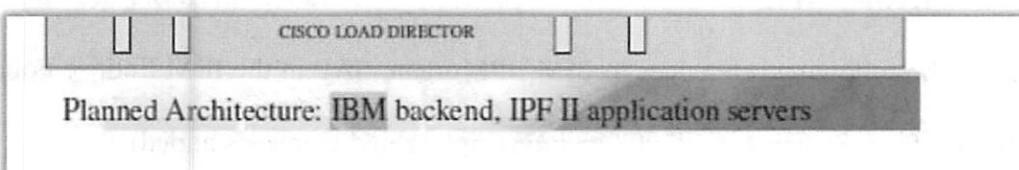
- 19 1. Eclipse's image in commercial end-user organizations

20 Eclipse was widely recognized within the tool community. This included tool providers
21 such as tool vendors and tool builders. However, there was minimum awareness and
22 confused identity within the end user community. Eclipse is often construed as a standard
23 rather than a platform for tool integration. Eclipse is also viewed as inconsistent with
24 OMG standards. Eclipse is perceived as dominated by IBM.

- 25 • Authorizing the Executive Director to take action to:

- 26 • Acquire insurance for the Corporation; and
27 • Migrate Eclipse's IT and website systems from their current IBM-
28 supported infrastructure to an Eclipse controlled site
29 • Open bank accounts on behalf of the Corporation

30 *The plan for the Eclipse Tools Project*

31 
32 Planned Architecture: IBM backend, IPF II application servers

33 **Eclipse Board Meeting Minutes, May 28, 2003: Eclipse Legal Committee**

67. Mike Rank presented the report of the Legal Advisory Committee: The Legal committee includes members: HP: Michael Rank (Chair, 2003); IBM: Tom Callan; OMG: Jamie Nemiah; **SAP: Michael Bechauf**.

Eclipse Board Meeting Minutes, Sep 15, 2004:

68. A number of resolutions were reviewed and approved by the Board. These resolutions included: Michael Bechauf of SAP will be taking over from Bjorn Freeman-Benson as Chairman of the Compensation Committee.

Eclipse Board Meeting Minutes, Feb 28, 2005:

69. Exhibit Hall Sold Out for EclipseCon.

7 Gold Sponsors: Accelerated, Actuate, Agitar, Borland, HP, IBM, SAP.

SAS. SAP. Intel. Borland. BEA sponsoring a reception.

IBM, Sybase and Genuitec hosting a vendor reception.

Board Membership Update Feb 2005: Strategic developer: IBM; Strategic consumer: SAP.

Jon Ward of IBM is leading a working group to initiate a market study... provided Eclipse a proposal for \$60K to conduct this study; Working Group currently soliciting sponsors for the study from Member companies: Interested companies: **IBM, SAP**.

Common Public License Version 0.5: "Contributor" means any person or entity that distributes the Program. (d) Each Contributor represents that to its knowledge, it has sufficient copyright rights in its Contribution, if any, to grant the copyright license set forth in this Agreement."

Eclipse Board Meeting Minutes, Dec 8, 2004:

70. The Board replaced the “Legal Advisory Committee” with a new “IP Advisory Committee” chaired by Dave Thomson of IBM and including ...and Michael Bechauf (SAP). (D.I. 1-4, p. 13 of 83, p. 693). Michael Bechauf (SAP) is a founding Eclipse Board of Director of

1 The IBM Eclipse Foundation. See Ecosystem OData- the best way to REST, showing SAP, IBM
 2 applications using OData-based REST services in www.sap.com (D.I. 1-4, p. 33 of 83, p. 713).

3
 4 71. In *Reves v. Ernst & Young*, 494 U.S. 56 (1990), the Supreme Court held that
 5 participation in the conduct of an enterprise requires an element of direction over the affairs of
 6 the enterprise. Plaintiff has already established liability on the part of Defendants because
 7 Defendants' participation in the conduct of The IBM Eclipse Foundation is clearly evidenced by
 8 an element of direction over the affairs of the enterprise. Plaintiff's Exhibits of The IBM Eclipse
 9 Foundation Meeting Minutes shows SAP was a founding Board Member, IBM was the ring
 10 leader and IBM was the Eclipse CPL 0.5 Agreement Steward and that nobody could modify the
 11 License Agreement without the approval of the Agreement Steward, namely, IBM and JPMorgan
 12 was the first showcase system of the Eclipse code, stolen property.

14
 15 72. Plaintiff's **Exhibits 1-8, 11, and 16** show by a preponderance of evidence
 16 Defendants' liability, as they meet the commerce requirement of the federal statute, the IBM
 17 Eclipse Foundation Antitrust racketeering enterprise sufficiently affected interstate commerce,
 18 see *U. S. v. Robertson*, 115 S. Ct. at 1733 (stating that a corporation is generally "engaged 'in
 19 commerce" when it is itself "directly engaged in the production, distribution, or acquisition of
 20 goods or services in interstate commerce").

21
 22 73. That Defendants exercised sufficient "managerial or operational control" for
 23 liability under 18 U.S.C. §§ 1962 (c) is factual, of public record that the Court must take Judicial
 24 Notice of. Preponderance of evidence has established that Defendants are liable under 18 U.S.C.
 25 §§1962 (c), and that Defendants are associated-in-fact.

26
 27 74. **Plaintiff has established by a preponderance of evidence that Defendants**
 28 **conspired and agreed to engage in the conduct which violates Antitrust laws and 18 U.S.C.**

1 §§1962(b)) and (c). IBM, SAP, JPMorgan *et al* made an agreement to conduct or participate in
 2 the affairs of The IBM Eclipse Foundation. In addition, Defendants agreed to commit at least
 3 two predicate acts which form the pattern of antitrust racketeering activity. *See the code*
 4 **changes made together by IBM and SAP of stolen property.** See “**Tentative IP Log for**
 5 **eclipse.platform, eclipse.jdt and eclipse.pde,**” **Exhibit 11, pp. 15-131.** Hence, Plaintiff has
 6 shown by a preponderance of evidence that Defendants have violated 18 U.S.C. §§1962(d) and
 7 Sections 1 & 2 of the Antitrust Sherman Act.

9 75. Plaintiff has provided sufficient information in her Complaint and Exhibits that
 10 established with a preponderance of evidence the overt acts committed by Defendants in
 11 furtherance of the antitrust conspiracy, as required in civil cases. See Exhibits 1 and 11 about
 12 IBM as the CPL Security Steward, endorsed by SAP as Board member and by JPMorgan as
 13 Eclipse showcase.

15 76. For each alleged predicate act, Defendants were associated with the wrongful
 16 conduct, participated with the intent to bring it about, and sought by their actions to make it
 17 succeed. *See Exhibit 11, pp. 15-131 showing IBM and SAP changing code.* This is a
 18 preponderance of evidence of Defendants’ aiding and abetting liability, where for each alleged
 19 predicate act, the defendant was associated with the wrongful conduct, knew of the commission of the
 20 act and acted with intent to facilitate it. *Jaguar Cars, Inc. v. Royal Oaks Motor Car Co., 46 F.3d*
 21 *258 (3d. Cir. 1995).*

24 77. **Exclusionary Agreement with IBM as Agreement Steward:** Exhibit 11 is a
 25 true copy of the CPL Agreement of Eclipse code, which shows IBM-SAP collusion from the
 26 Eclipse website. The documents in the Exhibit are true and accurate copies of files downloaded
 27 from www.eclipse.org on April 18, 2016: 2002-08-29 Common Public License (CPL) Version
 28

1 0.5 <http://www.eclipse.org/legal/cpl-v05.html>; 2004-09-02 Tentative IP Log for
 2 eclipse.platform, eclipse.jdt and eclipse.pde
 3

4 http://www.eclipse.org/projects/ip_log.php?projectid=eclipse.platform,eclipse.jdt,eclipse.pde; and 2004-09-02 Eclipse CPL to EPL Transition Plan <http://www.eclipse.org/legal/cpl2epl/>
 5

6 **78. Defendants committed overt acts in furtherance of the conspiracy, as**
 7 required in civil cases, as evidenced from their overt acts in the IBM Eclipse Foundation.
 8

9 **79.** Plaintiff has already shown by a preponderance of evidence of Defendants'
 10 liability as they meet the direct causation requirement of the RICO statute and that the injury to
 11 Plaintiff's business or property occurred "by reason of" the RICO violation by the Defendants, as
 12 required by 1964 (c). *See* U.S. Supreme Court ruling in *Holmes v. Securities Investors Protection*
 13 *Corp.* 112 S. Ct. 1311 (1990).

14 **C) ANTITRUST CONSPIRACY UNDER COLOR OF A NON-PROFIT**
 15 **ENTITY (!!!), TO AVOID INVESTIGATION – A WHITE COLLAR**
 16 **CRIME – YET DEFENDANTS MADE TRILLIONS OF DOLLARS:**

17 **80.** The corporate form for The Eclipse Foundation is wholly irrelevant to claims of
 18 racketeering. If this were true, then every organized crime syndicate in the United States would
 19 become a not-for-profit entity. Indeed, The Eclipse Foundation as (and under color) of a not-for-
 20 profit entity is acting as a conduit through which its members such as IBM, SAP and other
 21 Defendants, derive trillion dollar profits by trafficking stolen goods, intellectual property and
 22 source code belonging to Plaintiff and other inventors through the unlawful use without a
 23 trademark or copyright license. This constitutes civil RICO as well as violation of the many
 24 statutes of the USA, namely, Copyright and Trademark statutes, and Antitrust statutes.
 25

26 **81.** The IBM Eclipse Foundation meets federal statute's requirements of a '1961(4)
 27 "enterprise:" "...any union or group of individuals associated in fact although not a legal

1 entity," an amoeba-like infrastructure that controls a secret antitrust racketeering network, of
 2 companies engaged in committing the predicate acts.

3 82. IBM admits that IBM funded The IBM Eclipse Foundation. *See* IBM 2001
 4 Annual Report, PDF p. 21, *supra*. It is a matter of public record and an item subject to judicial
 5 notice that IBM, SAP and JPMorgan have acquired or maintained an interest in or control of an
 6 enterprise through a pattern of antitrust racketeering activity, by trafficking goods, intellectual
 7 property, inventions, source code belonging to Plaintiff and other inventors involving interstate
 8 and foreign commerce, and have used counterfeit marks and violated the Copyright and
 9 Trademark statutes and Antitrust statutes.

10 83. Defendants meet the 1989 U.S. Supreme Court test of continuity plus relationship,
 11 repeated conduct that by its nature projects into the future with a threat of repetition, unless this
 12 Court steps in and puts an end to their continuing antitrust conspiracy activities and continued
 13 pattern of anti-competitive conduct. Defendants' misconduct forms a pattern by committing
 14 acts that have the same or similar purposes, results, participants, victims, or methods of
 15 commission, or are otherwise interrelated by distinguishing characteristics and are not isolated
 16 events.

17 84. Defendants IBM, SAP, JPMorgan *et al* acquired significant control and influence
 18 interests, such as pre-emptive controls over development and management of key governing
 19 licensing agreements and effective control of the composition of the directors, program leaders
 20 and staffing. For example, IBM designated itself as the "Initial Agreement Steward" of the
 21 Eclipse "Common Public License 0.5." Such positions constitute controlling "interest" in an
 22 enterprise under federal statutes. SAP and IBM funded The IBM Eclipse Foundation. *See* IBM
 23 2001 Annual Report, PDF p. 21, *supra*. Its members such as IBM, SAP, Apple, Samsung, Fiserv,

1 Microsoft and others used The Eclipse Foundation as a conduit through which they derive profit
 2 by trafficking goods, intellectual property and source code belonging to Plaintiff and other
 3 inventors through unlawful use without a copyright license. This constitutes violation of
 4 Copyright and Trademark statutes and antitrust statutes.
 5

6 85. SAP, IBM and JPMorgan obstructed Plaintiff's efforts at commercialization of
 7 her intellectual property into products and hijacked them away to their customers such as
 8 JPMorgan, Facebook, and others. SAP, IBM and JPMorgan caused financial damage to Plaintiff.
 9 SAP, IBM and JPMorgan also caused personal injury to Plaintiff by colluding and conspiring
 10 with the judiciary through Incidentally Skadden Arps, James Chandler, Dave Kappos, former
 11 internal IBM's Chief Patent Counsel assigned by IBM, to be the Director of the USPTO, Sterne
 12 Kessler, Jones Day, Kevin Turner, Jon Strang, Lori Gordon, Mike Lee, CAFC Judge K. Moore,
 13 PTAB Judges Siu and McNamara, who had direct stock in Microsoft, a litigant in Plaintiff's re-
 14 exam cases, and DOES 1-100, through wielding undue influence and power over the PTAB and
 15 CAFC against Plaintiff, and failing to abide by the Law of the Land as in the Supreme Court's
 16 *Fletcher* ruling and in the Federal Circuit's *Aqua Products* ruling on patent prosecution history
 17 estoppel.
 18

19 86. The indelible evidence of Eclipse code version 2.0.1 incorporating the intellectual
 20 property, source code and inventions of Plaintiff cannot be disputed by Defendants. This Court
 21 should take Judicial Notice of Eclipse code version 2.0.1, a matter of public record.

22 87. That Defendants unlawfully used and trafficked goods, intellectual property, source code
 23 and inventions belonging to Plaintiff and others without a copyright license and using
 24 counterfeit marks, and profited from it without compensation to the inventor in violation of
 25 Antitrust laws cannot be disputed. Colluding and conspiring in an antitrust illegal trafficking of
 26
 27
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1 goods belonging to others without a license to copyrights or trademarks of others by IBM and
2 SAP cannot be disputed.

3 88. Defendants injured Plaintiff, a minority-owned, woman-owned small business
4 competitor, by crushing her and her business by antitrust racketeering activities, by using undue
5 influence to obtain Plaintiff's intellectual property at below market prices at zero dollars and
6 distributing it unlawfully for unjust enrichment, causing the loss of her business. IBM, JPMorgan
7 and SAP engaged in Antitrust violation and damaged Plaintiff financially and caused to inflict
8 bodily injury on Plaintiff. The injury caused by IBM, JPMorgan, SAP, to Plaintiff, to her
9 business and to her personally, is huge and measurable.

10 89. Defendants made representations by mail, telephone and email. Plaintiff hereby
11 invokes 18 U.S.C. §1962 on the basis of mail and wire fraud by Defendants, in furtherance of
12 their antitrust racketeering conspiracy. Proof that Defendants committed common law fraud
13 (plus the additional element of using the mails or wires) to establish these predicate acts abounds.

14 90. Plaintiff has provided incontrovertible and a preponderance of evidence to prove
15 that (1) Defendants committed the predicate acts and engaged in a pattern of racketeering
16 activity, antitrust violations and conspiracy and proof of an "overt act" committed in furtherance
17 of the antitrust conspiracy. Defendants engaged in a pattern of racketeering and anti-competitive
18 activity prohibited by at least the Sherman Act and 18 U.S.C. §§1962(b) through (d).

19 91. Plaintiff further alleges that Defendants and DOES 1-100 committed two (2) or
20 more of the offenses itemized above in a manner which they calculated and premeditated
21 intentionally to threaten continuity, i.e. a continuing threat of their respective racketeering
22 activities, also in violation of 18 U.S. C. 1962(d) (Prohibited activities *supra*).

23 92. During the ten (10) calendar years preceding the date of the instant Complaint,

1 Defendants and DOES 1-100 cooperated jointly and severally in the commission of two (2) or
 2 more of the Antitrust racketeering acts that are itemized at 18 U.S.C. §§ 1961(1)(A) and (B), in
 3 a manner which they calculated and premeditated intentionally to threaten continuity, *i.e.* a
 4 continuing threat of their respective antitrust *racketeering activities*, and did so in violation of 18
 5 U. S. C. 1962(b), (c) and (d) (Prohibited activities).

7 93. Defendants received income, directly or indirectly, from a pattern of racketeering
 8 activity via The IBM Eclipse Foundation. Defendants used or invested part of such income to
 9 create The IBM Eclipse Foundation and to acquire a controlling or other interest in it. It is a
 10 matter of public record that this enterprise is engaged in activities that affect inter-state or foreign
 11 commerce.

13 94. Defendants engaged egregiously in Antitrust racketeering acts, namely: criminal
 14 infringement of a copyright (18 U.S.C. § 2319); economic espionage and theft of trade secrets
 15 (18 U.S.C. §§ 1831 and 1832); retaliating against a witness, victim, or informant (18 U.S.C. §
 16 1513); obstruction of justice (18 U.S.C. § 1503); act or threat involving ...robbery, extortion,
 17 bribery (18 U.S.C. § 201); counterfeiting (18 U.S.C. §§ 471, 472 and 473); theft from interstate
 18 shipment (18 U.S.C. § 659); mail fraud (18 U.S.C. § 1341); wire fraud (18 U.S.C. § 1343);
 19 obstruction of criminal investigations (18 U.S.C. § 1510); interference with commerce, robbery,
 20 or extortion (18 U.S.C. § 1951); engaging in monetary transactions in property derived from
 21 specified unlawful activity (18 U.S.C. § 1957); *interstate transportation of stolen property* (18
 22 U.S.C. §§ 2314 and 2315); trafficking in counterfeit labels for computer programs or computer
 23 program documentation (18 U.S.C. § 2318); and trafficking in goods or services bearing
 24 counterfeit marks (18 U.S.C. § 2320). Defendants violated the laws of the United States through
 25 willful and highly material fraud and hence are liable under Antitrust and RICO statutes.
 26
 27
 28

1 95. The counterfeit marks are the unlawful selling by Defendants as SAP goods and
 2 IBM goods such as IBM WebSphere and any and all Web applications and services marketed by
 3 SAP and IBM, and AppStore, Google Play and Samsung's Google Play Web applications, and
 4 Fiserv 's Web applications, without licensing from Plaintiff.

5 96. See items of public record, that this Court should take judicial notice of,
 6 namely, Eclipse code version 2.0.1, CPL Common Public License 0.5 of the Eclipse code, of
 7 the Eclipse Foundation Meeting Minutes, which are matters of public record and attached
 8 as Exhibits 11, 16 and 1-8.

9 97. Plaintiff has provided incontrovertible evidence of Defendants' role in and their
 10 use of The IBM Eclipse Foundation, to hijack and distribute Plaintiff's intellectual property and
 11 that of others. In hijacking Plaintiff's inventions, Defendants violated numerous laws, including
 12 but not limited to RICO statutes, the Copyright Act, and Antitrust statutes. This evidence shows
 13 that the Defendants conspired and acted to design and engage in an antitrust racketeering
 14 enterprise to effect financial damage, termination of property rights without due process and
 15 infliction of bodily injury upon Plaintiff.

16 98. Defendants' theft of intellectual property, source code and inventions by Plaintiff
 17 and other inventors — all important intellectual properties that IBM and its conspirators needed
 18 to form the basis of their global “Internet of Things” scheme — are material facts integral to
 19 the case.

20 99. SAP's involvement in THE IBM Eclipse Foundation occurred long before SAP's
 21 Petition for CBM Review of Plaintiff's Patents at the PTAB. SAP was one of the Founding
 22 members of The IBM Eclipse Foundation.

1 100. The IBM Eclipse Foundation and SAP's trafficking activities through this
2 conduit, compounded by the theft of Plaintiff's intellectual property and economic espionage and
3 theft of trade secrets by SAP (18 U.S.C. §§ 1831 and 1832), are a matter of public record and
4 item of Judicial Notice and this Court must take Judicial Notice of such.
5

6 101. Plaintiff clearly alleges in this complaint that IBM's sale or JPMorgan's purchase
7 of WebSphere development tools and Web application products and services and Apple's App
8 Store, Google's and Samsung's Google Play Web applications is criminal infringement of a
9 copyright (18 U.S.C. § 2319); economic espionage and theft of trade secrets (18 U.S.C. §§ 1831
10 and 1832); and a violation of many laws, including but not limited to the Copyright Act,
11 Antitrust statutes and civil RICO statutes.

12 102. IBM cannot alter history or change facts. Items of public record and items subject
13 to judicial notice about Defendants' involvement in The IBM Eclipse Foundation are not items
14 this Court may ignore. Those facts point overwhelmingly to collusion, conspiracy and a pattern
15 of Antitrust racketeering by Defendants in egregious violation of 18 U.S.C. §§ 1962 (b).

16 103. IBM's long time former inside counsel David J. Kappos later became Director of
17 the USPTO. It is a matter of public record that: (1) JPMorgan is IBM's customer of IBM's Web
18 application products, tools and services; (2) that law professor emeritus James P. Chandler, III is
19 a key figure at the Patent Office, helped IBM create and promote The IBM Eclipse Foundation.
20 Kappos was a participant in Chandler's organization, The National Intellectual Property Law
21 Institute (NIPLI). In these positions, it is well known in Washington, D.C. that Chandler
22 influenced President Obama to appoint Kappos as director of USPTO in a rare recess
23 appointment on August 7, 2009. Incidentally Chandler and Kappos were instrumental in
24 appointing Incidental Patent Judge Stephen C. Siu to patent reexaminations of Plaintiff and of

1 Leader Technologies (Chandler was Leader Tech's Patent Counsel at one point.). (3) PTAB
2 Judge Siu failed to disclose that both IBM and Microsoft were his former employers, thus
3 disqualifying him from hearing and presiding as chief judge in Plaintiff's patent reexaminations;
4 his financial holdings in Microsoft and IBM and conflicts of interest void his ruling (because
5 Microsoft was the Third Party Requester who initiated the re-exam) in the USPTO/PTAB
6 invalidating Plaintiff's patent for no valid reason in violation of Patent Prosecution History
7 Estoppel, and CAFC's ruling in *Aqua Products Inc. v Matal*, 15-1177, 10/17, and in treasonous
8 violation of U.S. Supreme Court's Chief Justice Marshall's ruling in *Fletcher v. Peck*, 10 U.S. 87
9 (1810) ; (4) Incidental PTAB Judge McNamara holds direct stock in Microsoft [the Third Party
10 Requester who initiated the re-exam against Plaintiff's patents.], which is an influential
11 participant and collaborator, directly and through surrogates, in The IBM Eclipse Foundation and
12 failed to recuse and thus deprived Plaintiff of her due process rights. McNamara has been unduly
13 harsh to Plaintiff, denying her electronic filing and expunging her files for asserting her
14 constitutional right to a neutral judge. He threatened that he would and treasonously ruled all her
15 patents invalid in the PTAB re-exams initiated by SAP—a founding member of The IBM Eclipse
16 Foundation. This conflict voids any and all PTAB decisions on Plaintiff's patents.
17
18

19 104. The fraud-based antitrust racketeering claim includes the date, place and time of
20 the fraud, who made a misrepresentation to whom and the general content of the
21 misrepresentation.

22 105. Colluding and conspiring in an antitrust racketeering illegal trafficking of goods
23 belonging to others without a license to copyrights or trademarks of others by IBM and other
24 Defendants cannot be disputed.
25
26
27
28

1 106. JPMorgan knowingly engaged in obstruction of justice, in violation of the federal
2 obstruction of justice statute, and remained silent (as fraud) of Patent Prosecution History
3 Estoppel, in violation of CAFC's ruling in *Aqua Products Inc. v Matal*, and in treasonous
4 violation of U.S. Supreme Court's ruling in *Fletcher v. Peck*. which affected the Plaintiff; and
5 witnesses and the judiciary, caused her bodily injury, loss of her business and property rights and
6 financial damage.

7
8 107. The Court should grant Plaintiff the threefold damages Plaintiff has sustained and
9 the cost of suit, including a reasonable attorneys' fee, as per 18 U.S. C §1964(c), because
10 Defendants injured Plaintiff, her business and property by reason of a violation of § 1962 and of
11 Antitrust statutes.

12
13 108. Defendants' civil RICO predicate acts directly affected the Plaintiff and
14 witnesses. SAP retaliated against the Plaintiff, the victim, SAP's and JPMorgan's lawyers wrote
15 threatening letters or communication, endeavored to influence, terrorize, intimidate, impeded
16 Plaintiff, her lawyers, officers of the Court of the United States, in the discharge of their duties.
17 See Exhibit 17, a terrorizing letter by SAP's counsel to Plaintiff, and other examples of
18 Incidental Dan DeVito of Skadden threatening Plaintiff's lawyer, Incidental Bill Weidner.
19 Eclipse Foundation and IBM's trafficking activities through this conduit, a matter of public
20 record and item of judicial notice, can hardly be a conclusory allegation.

21
22 109. The legislative history of and the Anticounterfeiting Consumer Protection Act of
23 1996 ("ACPA"), available from the House Congressional Record dated June 4, 1996, 110 Stat.
24 1386, July 2, 1996 are particularly relevant to the instant case [theft of copyright and
25 trademark.], because it elevated copyright and trademark infringement to the status of RICO
26 predicate acts, citing superb reasons for doing so.

1 110. Drawing on the Supreme Court's broad interpretation of the Commerce Clause in
2 the U.S. Constitution, courts have held that virtually any business activity which involves the
3 flow of goods or services in "commerce" affects interstate commerce.
4

5 111. The injury to Plaintiff and her property occurred, as shown by a preponderance of
6 evidence above, by reason of the RICO violation by IBM and all the other Defendants and
7 DOES 1-100. Defendants violated Rule 1964(c) and the Sherman Act. Plaintiff is entitled to
8 recover threefold the damages he sustains and the cost of suit, including a reasonable attorneys'
9 fee.
10

BREACH OF SOLEMN OATH BY ALL DEFENDANTS AND DOES 1-100

12 112. Plaintiff now re-alleges each and every allegation as set forth above, and hereby
13 incorporates same by reference, as if all were set forth fully herein. Substance prevails over
14 form.
15

16 113. Incidental Judge Andrews became a trespasser of the law, engaged in treason
17 because he knew or should have known the Supreme Law of the Land – U.S. Supreme Court
18 Chief Justice Marshall's Ruling on '*First Impression*' Constitutional *Res Judicata* on
19 Government 'Grants' which cannot be revoked even by the highest authority and 'Patent
20 Prosecution History Estoppel' – and failed to enforce it. His orders are void. All of Judge
21 Andrews' [and All Other Judges Similarly Situated, namely, Incidentals, Robinson, Stark,
22 Davila, LaPorte, Gilstrap, PTAB Judges McNamara, Siu, Turner, Bisk, Braden, CAFC
23 Judges, USPTO Re-examiner Cabrera] Orders are Void.
24

25 114. Any judge (Incidentals Judge Stark, Third Circuit Judges, CAFC Panel Judges
26 and other judges) or attorney (Incidentals George Pazuniak, Sean O'Kelly, Ryan Ernst, Bielli,
27 Defendants' lawyers, Doug Nemec, Ed Tulin, Dan DeVito, Doug Williams, Greg Lanier, Lori
28

Gordon, Michael Lee, Kevin Culligan, Moore, and others) who did not report the above judges for treason as required by law may themselves be guilty of misprision of treason, 18 U.S.C. Section 2382. Incidentals, judges, attorneys, Administrative Agency judges and officials, and the Defendants and their agents and assigns, are themselves guilty of breach of their solemn oaths of office and willfully committed treason, even after the Plaintiff put them on notice of *Fletcher*, as well as of *Aqua Products* rulings.

115. 35 U.S.C § 282 of the Patent Act allows the presumption of validity of Plaintiff's patents, in addition to the Supreme Court ruling in *Fletcher* which prohibits the rescinding of a Granted Patent even by the highest authority. Defendant JPMorgan did not provide clear and convincing evidence of invalidity of her patents, U.S. patent No. 5,987,500 ('500 patent), 8,037,158 ('158 patent) and 8,108,492 ('492 patent) in Case 1:12-cv-282 (D. Del). SAP, Citizen's Financial Group, CitiBank, Wells Fargo Bank, JPMorgan, Fiserv, Fulton and Kronos did not provide clear and convincing evidence of invalidity of Plaintiff's '506 or '339 patent or that they are collaterally estopped, as they obstructed justice and remained silent (as fraud) of patent prosecution history estoppel and U.S. Supreme Court's ruling in *Fletcher*, prohibiting the quashing a Patent Grant even by the highest authority. **Andrews' Ruling in the Fulton Bank case involving Plaintiff's '339 Patent failed to enforce Justice Marshall's Ruling on 'Grants' and 'Patent Prosecution History Estoppel' and is irrelevant to the Facts of the '339 Patent and is void.**

COLLUSIVE FRAUD BY ALL DEFENDANTS, DOES 1-100 AND INCIDENTALS

116. The claim term in the Plaintiff's patents, "value-added service network," is definite because the boundaries of the patent protection sought are clear. Prosecution history estoppel and disclaimer prevent the Court from ruling several terms indefinite, such as "value-

1 added service network,” “service network,” “value-added network switch.” The District Courts’
 2 and CAFC’s errors were prejudicial and willful, evidencing collusion between the Court, Judge
 3 Andrews, Judge Robinson, CAFC Judges with JPMorgan, Fulton Bank, George Pazuniak,
 4 Skadden Arps, IBM , the IBM Eclipse Foundation, Judge Laporte, Fiserv, Fremont
 5 Bancorporation and Fremont Bank, and the District Court in Eastern Texas, Marshall Division .
 6
 7 “Value-added service network” is a term coined by the inventor/Plaintiff and can only take on
 8 that meaning ascribed to it by the inventor. The PTAB interpreted this claim term. Examples of
 9 claim language which have been held to be indefinite set forth in MPEP § 2173.05(d) are fact
 10 specific and should not be applied as per se rules. CAFC provides guidance (emphasis added):
 11

12 “The Federal Circuit’s decision in *Powell v. Home Depot*, App. No. 2010-
 13 1309 (Fed. Cir. Nov 14, 2011)... reminds one “the prior art cited in the
 14 prosecution history of a patent forms part of the intrinsic evidence for
 15 claim construction purposes,” *Kumar v. Ovonic Battery Co.*, 351 F.3d
 1364, 1368 (Fed. Cir. 2003); *Vitronics Corp. v. Conceptronic, Inc.*, 90
 1576, 1582 (Fed. Cir. 1996)).”

16 “Judge Lourie’s Concurrence... “[C]laim construction is not a process
 17 that normally involves historical facts. It primarily involves reading the
 18 patent’s written description as well as the prosecution history of the
patent,...”

19 CAFC states:

20 “cited art as intrinsic evidence for purposes of claim construction....claims
 21 should be construed in view of the prosecution history’s treatment of
 22 the prior art so as to determine what the applicant gave up in obtaining
 23 allowance of the claims...When prior art that sheds light on the meaning of
 24 a term is cited by the patentee, it can have particular value as a guide to
proper construction of the term, because it may indicate not only the
 25 meaning of the term to persons skilled in the art, but also that the patentee
intended to adopt that meaning.” *Arthur A. Collins, Inc. v. Northern*
Telecom Ltd, 216 F.3d. 1042 (Fed. Cir. 2000).”

26 **SAP AND JUDGE ANDREWS’ WILLFUL OMISSIONS, OBSTRUCTION OF**
 27 **JUSTICE, FALSE ALLEGATIONS ABOUT PLAINTIFF AND HER PATENTS**
 28 **AND SAP TERRORIZING PLAINTIFF (EXHIBIT 17) MASK**

1 **RACKETEERING EVIDENT FROM SAP'S FOUNDING ROLE (2001) IN THE**
 2 **IBM ECLIPSE FOUNDATION, HIJACKING PLAINTIFF'S INVENTIONS**
 3 **THAT CREATED THE MILLENNIAL GENERATION (EXHIBIT 16:**
 4 **ECLIPSE.ORG, MEMBERS, ECLIPSE CODE WHICH INCLUDES SAID**
 5 **INVENTIONS)**

6 117. Incidental Judge Andrews obstructed justice involving multiple parties thus
 7 denying Plaintiff a due process hearing, without giving a chance to be heard nor being given a
 8 fair chance and due process by the Courts, using counterfeit logic to manufacture false
 9 allegations about Plaintiff and her patents that masks violation of U.S. laws and
 10 misrepresentation by individual lawyers, expert witnesses, judges, PTAB, enterprises and their
 11 employees, that has caused great personal, physical and financial injury to Plaintiff.

12 118. **SAP colluded with IBM to hijack and illegally distribute Plaintiff's code and**
 13 **invention to multiple IBM Eclipse Foundation members.** Judge Andrews aided, abetted and
 14 colluded with them.

15 119. **Exhibit 11** is a true copy of the CPL Agreement of Eclipse code, which shows
 16 IBM-SAP collusion from the Eclipse website.

17 120. IBM and IBM's customer JPMorgan and SAP, Wells Fargo, CitiBank and Judge
 18 Andrews, USITC, Facebook, Apple, and Samsung have been engaged in obstruction of justice;
 19 tampering with a witness, Marvin Sirbu by SAP, and Ms. Spielman by JPMorgan; interference
 20 with commerce, robbery and extortion; racketeering (the Hobbs Act).

21 121. IBM had a scheme to defraud and Defendant IBM's knowing participation in that
 22 scheme, as evidenced by The IBM Eclipse Foundation. IBM had a specific intent to defraud; *See*
 23 **Exhibit 11.**

122. SAP, JPMorgan, Wells Fargo, CitiBank, Fiserv, Apple, Samsung, all of whom are members of the IBM Eclipse Foundation made false representation of material facts and made material omissions of facts; that they knew were false, that they made the material representation or omission with the intent to induce the Plaintiff/judges to rely upon, action by the Plaintiff/judges in reliance on the misrepresentation or omission, injury to the Plaintiff as a result of such reliance.

123. IBM and SAP and their customers, JPMorgan, CitiBank, Wells Fargo and the other Defendants are engaged in monetary transactions in property derived from specified unlawful activity and interstate transportation of stolen property, by illegally distributing Eclipse code which includes Plaintiff's inventions, through the IBM Eclipse Foundation.

124. IBM, SAP, JPMorgan, Andrews, and other Defendants have been engaged in a pattern of racketeering activity of at least two acts of racketeering activity and the last of which occurred within ten years after the commission of a prior act of racketeering activity and with the threat of continuing activity. The factor of continuity plus relationship combines to form a pattern. This is evident from the IBM Eclipse Foundation. This conduct forms a pattern as IBM and other members of the IBM Eclipse Foundation embrace unlawful acts that have the same or similar purposes, results, participants, victims, or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated events. IBM, SAP and JPMorgan, Apple, Samsung, Fiserv and other Defendants have been engaged in such unlawful activity during a closed period of repeated conduct and also engaged in past conduct that by its nature projects into the future with a threat of repetition.

1 125. The persons who committed the predicate offenses are IBM, SAP, JPMorgan,
 2 Fulton, Andrews, Apple, Google, Samsung, Facebook, Fiserv and its customer Fremont
 3 Bancorporation/Fremont Bank, other Defendants, as well as the judges, individual lawyers,
 4 expert witnesses, USPTO/PTAB and they are distinct from the “enterprise,” the IBM Eclipse
 5 Foundation, which qualifies under 1961(4). ‘1961(4) “enterprise” includes any individual,
 6 partnership, corporation, association, or other legal entity, and any union or group of individuals
 7 associated in fact although not a legal entity.
 8

9

10 **OBSTRUCTION OF JUSTICE BY ALL DEFENDANTS AND DOES 1-100 AND
 11 INCIDENTALS (WHO COMMITTED WILLFUL THEFT, COMMISSION OF A
 12 CRIME IN THE DELAWARE SUPERIOR COURT IN FILING FALSE
 13 ACCOUNTING AS SEALED DOCUMENTS AND CONCEALMENT BY
 14 INCIDENTALS GEORGE PAZUNIAK, PAZUNIAK LAW OFFICE, LLC, AND
 15 O’KELLY ERNST AND JOYCE, LLC TO AID AND ABET ANTITRUST
 16 VIOLATIONS BY CORPORATE DEFENDANTS AND AIDING AND
 17 ABETTING SAID CRIME BY INCIDENTAL ERIC M. DAVIS)**

18 126. Defendants committed obstruction of justice and induced Incidentals George
 19 Pazuniak, Pazuniak Law Office, LLC to aid and abet antitrust violations by corporate
 20 Defendants, and Defendants colluded with said Incidentals in violations of the law. Said
 21 Incidentals (i) committed obstruction of justice; (ii) argued falsely in Court, concealing that
 22 Plaintiff’s patents are protected by Patent Prosecution History Estoppel and by U.S. Supreme
 23 Court’s ruling in *Fletcher v. Peck* prohibiting the quashing of a Granted Patent by even the
 24 highest authority; (iii) committed willful theft of Principal-Client-Beneficiary funds collected
 25 from infringers and refused to return it to Plaintiff for over 4 years to cover up for the
 26 malpractice George Pazuniak committed; (iv) committed a crime in the Delaware Superior
 27 Court in filing false accounting as a sealed filing and engaged in concealment to deprive Plaintiff
 28 of monies Pazuniak has unlawfully withheld from the Client IOLTA account and has not paid

1 Plaintiff for over 4 years, for which George Pazuniak should be turned over to the law
 2 enforcement authorities; and (v) damaged Plaintiff of the order of trillions of dollars; and (vi)
 3 Incidental Eric M. Davis aided and abetted the crime committed by George Pazuniak.
 4

5 **VI.B) MISAPPROPRIATING PLAINTIFF'S TRADE SECRETS AND OBSTRUCTION**
OF JUSTICE: DEFENDANTS MEET ALL ELEMENTS

6
 7 **1. PLAINTIFF DEVELOPED AND MAINTAINED ADVANCED INTERNET**
OF THINGS, WEB APPLICATIONS DISPLAYED ON A WEB BROWSER
 8 **TRADE SECRETS**

9
 10 127. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it
 were set forth fully herein.

11
 12 128. Plaintiff is the owner of computer code and design related to IoT devices and
 components thereof — Web applications displayed on a Web browser — trade secrets, which
 13 Defendants misappropriated, and improperly acquired/used/disclosed. Evidence of this is
 14 incontrovertible. See Eclipse code version 2.0.1, CPL Common Public License 0.5 of the
 15 Eclipse code, of the Eclipse Foundation Meeting Minutes, which are matters of public
 16 record and attached as Exhibits 11, 16 and 1-8. Defendants copied Plaintiff's
 17 code/inventions, which are now part of the IBM Eclipse Foundation source code available
 18 for download at www.Eclipse.org (eg, see Eclipse code version 2.0.1 that include Plaintiff's
 19 inventions.)

20
 21 129. **ELEMENTS:** IBM/SAP/Microsoft's misappropriation caused Plaintiff harm
 and Defendants to be unjustly enriched.

22
 23 130. IBM, SAP, Microsoft signed NDAs with Dr. Arunachalam and her companies in
 24 1994, 2001, 2003, and 1996, when Gordon Bell, CTO of Microsoft, signed an NDA with
 25 WebXchange, Inc. Microsoft copied computer code and design owned by Plaintiff and filed the
 26
 27
 28

1 SOAP Patent in 1997, two years after Dr. Arunachalam. Microsoft offered to buy her patents in
 2 2004-2005. SAP offered \$100M for her 3 patents in 2003, and then released products that
 3 copied computer code and design owned by Plaintiff. IBM offered to buy her patents in 2006.
 4 IBM and SAP were founding board members of the Eclipse Foundation and contributed \$40M
 5 each to create the Eclipse Foundation. IBM is the Agreement Steward for CPL Version 0.5, that
 6 gives a free copyright license and a free patent license to Plaintiff's computer code and design
 7 related to IoT devices and components thereof --Web applications displayed on a Web browser,
 8 and they do not allow anyone else to modify the CPL Agreement, thereby engaging in price
 9 fixing and impeding competition. IBM, SAP, Microsoft engaged in breach of confidence,
 10 interference with contract, and unfair competition. They stole Plaintiff's computer code and
 11 design related to IoT devices and components thereof --Web applications displayed on a Web
 12 browser. They impeded the individual inventor, Dr. Arunachalam, from reaping the rewards of
 13 her labor by their theft of her valuable proprietary information by improper means, deception and
 14 failing to contract with her to develop and exploit the trade secret. IBM, SAP, Apple, Microsoft
 15 did not engage in good faith and honest fair dealing.

131. *On Nov. 29, 2001, IBM "donated" \$40 million to The Eclipse Consortium (later
 renamed The Eclipse Foundation) to promote "open source" software (free to users without
 licenses). See 2001 IBM Annual Report Armonk NY, p. 21 ("We donated more than \$40 million
 in application development tools to a new, independent, open-source software community called
 Eclipse."); See also Eclipse.org (Nov. 29, 2001). Minutes of the eclipse.org Board Meeting, Nov.
 29th, 2001.*

132. On August 29, 2002, Eclipse issued version 2.0.1 of its source code (the secret
 sauce of a computer program). That version included all of the innovations of Plaintiff.

1 133. The Aug. 28, 2002 Eclipse Version 2.0.1 carried false IBM copyright claims over
2 Plaintiff's innovations and innovations of other inventors like Leader's innovations and
3 references to an (Eclipse) Common Public License (CPL) version 0.5.

4 134. By 2008, Eclipse Foundation had 191 members: a veritable *Who's Who* of
5 technology companies, their banks and mutual funds, and their federal government cronies,
6 including IBM, Google, Alphabet (Google), YouTube (Google), SAP, Oracle, Sybase, Rational,
7 HP, Wind River, Intel, Motorola, Hitachi, Samsung, Nokia, In-Q-Tel (C.I.A.), National Security
8 Agency (NSA), National Venture Capital Association (NVCA), Fidelity, T. Rowe Price,
9 Vanguard, Morgan Stanley, EMC, Dell, Facebook, Instagram (Facebook), LinkedIn (Facebook),
10 WhatsApp (Facebook), Square (Facebook), Squarespace (Facebook), PayPal, Goldman Sachs,
11 Togethersoft, Borland, QNX, Qualcomm, Xerox, Micron Technology, Cisco, Netflix, Apple,
12 AOL, Kleiner Perkins, Yahoo, Tumblr (Yahoo), Flickr (Yahoo), Twitter, Computer Associates
13 (CA), Microsoft (via University of Washington), Nokia (Microsoft), Siemens, IDG, BEA, AMD,
14 NetApp, NEC, Compuware, Novell, Blackberry, TIBCO, SAS, Toshiba, Texas Instruments,
15 Tsinghua University (Beijing), Wells Fargo, Honeywell, UBS, Credit Suisse, HSBC, Deutsche
16 Bank, Barclays, State Street Corp, Bank of America and JPMorgan.
17

18 135. On May 27, 2004, JPMorgan's Jamie Dimon issued a \$10 billion line of credit to
19 IBM (Mark Loughridge) while Goldman Sachs arranged debt financing for Lenovo, Beijing,
20 China. This meant that an underwriter engaged in double-dealing on both sides of the IBM sale
21 of the PC group to Lenovo on Dec. 8, 2004. IBM. (Jun. 30, 2004). Form 10-Q. SEC a04-
22 7971_110q, p. 17, fn. 12 ("On May 27, 2004, IBM completed the renegotiation of a new \$10
23 billion 5-year Credit Agreement with JPMorgan Chase Bank, as Administrative Agent, and
24 Citibank, N.A., as Syndication Agent, replacing credit agreements of \$8 billion (5-year) and \$2
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1 billion (364 day.) The Court must take judicial notice of the text of the Credit Agreement in its
 2 entirety.

3 136. IBM started using the term "The Internet of Things" and cloud computing in
 4 about 2009. Today, this theme dominates IBM's market push based on Plaintiff's inventions. The
 5 U.S. Government essentially used the power of the presidency (of Obama) to promote IBM in
 6 evident violation of the ethics rules, namely the Standards of Ethical Conduct for Employees of
 7 the Executive Branch (Subpart D - Conflicting Financial Interests, and Subpart E - Impartiality
 8 in Performing Official Duties).

9 137. Plaintiff now testifies that the list of acts and events now documented in
 10 Exhibit 11 constitutes probable cause for granting all relief requested *infra* in the instant
 11 COMPLAINT.

12 138. Dr. Arunachalam has shown that: (i) she owns the computer code and design
 13 related to IoT devices and components thereof — Web applications displayed on a Web browser,
 14 which she shared with IBM, SAP, and Microsoft under NDAs; (ii) the computer code and
 15 design related to IoT devices and components thereof — Web applications displayed on a Web
 16 browser was a trade secret at the time of misappropriation; (iii) IBM, SAP, Microsoft
 17 improperly acquired/used/disclosed the trade secrets at least to the Eclipse Foundation; (iv) Dr.
 18 Arunachalam was harmed and Defendants were unjustly enriched by trillions of dollars; (v)
 19 Defendants' acquisition/use/disclosure was a substantial factor in causing Dr. Arunachalam harm
 20 and for Apple, Google, Samsung, and other Defendants to be unjustly enriched.

21 139. "A trade secret is misappropriated if a person (1) acquires a trade secret knowing
 22 or having reason to know that the trade secret has been acquired by 'improper means' or in
 23 violation of a nondisclosure obligation, (3) discloses or uses a trade secret the person knew or

1 should have known was derived from another who had acquired it by improper means or who
2 had a nondisclosure obligation or (4) discloses or uses a trade secret after learning that it is a
3 trade secret but before a material change of position." (*Ajaxo Inc. v. E*Trade Group Inc.* (2005)
4 135 Cal.App.4th 21, 66 [37 Cal.Rptr.3d 221].) IBM, Microsoft and SAP meet all these elements.
5

6 140. Defendants' willful and malicious misappropriation and use of Plaintiff's Trade
7 Secrets without authorization from Plaintiff injured Plaintiff, who is entitled to recover damages
8 as remedy. Defendants engaged in mail fraud, communications fraud, and violated the National
9 Stolen Property Act and Section 5 of The Federal Trade Commission Act. The trade secret was a
10 property right of the Plaintiff which was infringed by all Defendants and IBM, Microsoft, SAP's
11 disclosure, breach of contract and breach of confidence by undertaking to apply it to
12 IBM/SAP/Microsoft's own use and disclosed it to third persons, at least to all members of The
13 Eclipse Foundation, without authorization from Plaintiff. IBM, SAP, Microsoft stood in
14 confidential relations with Plaintiff and her companies. The violation of trust and breach of faith
15 have injured Plaintiff, and her companies.
16
17

18 141. Defendants meet the 3 essential elements: (A) The existence of a trade secret; (B)
19 the acquisition of the secret by IBM, Microsoft, SAP by improper conduct or unfair means; and
20 (C) the use and disclosure by IBM, Microsoft, SAP of the trade secret to the trade secret owner's
21 detriment.
22

23 142. The Plaintiff's trade secret was not a matter of common knowledge in the trade in
24 1995, 1996, because what existed then was one-way browsing and CGI scripts, not real-time
25 two-way Web transactions from Web applications on a Web browser from multimedia IoT
26 devices, which was Plaintiff's trade secret, and was subject matter that would be protected as a
27
28

1 trade secret and reasonable precautions have been taken to maintain secrecy even before she
 2 formed her companies; and it is of immense value to Plaintiff as the market has proven.
 3

4 143. The information about Plaintiff's design acquired by IBM, Microsoft, SAP was
 5 protected against unauthorized use. Yet, IBM, Microsoft, SAP engaged in breach of confidence,
 6 gained the information in usable form, and escaped the efforts of inspection and analysis.
 7 Plaintiff, who is the owner of the trade secret, conveyed it to IBM, SAP, Microsoft, subject to a
 8 contractual duty forbidding its use or disclosure. IBM, Microsoft, SAP failed to meet the
 9 minimal standards of commercial morality in trade dealings.
 10

11 144. Evidence of use of the wrongfully acquired trade secret has been provided by
 12 Plaintiff in Exhibits 11, 16. Circumstantial evidence abounds that Apple App Store and
 13 Samsung's Google Play Web application developers (namely, IBM, Microsoft, SAP) used
 14 SOAP/REST as seen in the infringement charts Plaintiff has provided in Exhibit 4C to the
 15 USITC in Case 337-1094, incorporated by reference herein, as if it were set forth fully herein.
 16

17 **2. IBM AND MICROSOFT STOLE PLAINTIFF'S TRADE SECRETS,
 EVIDENT FROM THE ECLIPSE FOUNDATION SOURCE CODE**
 18

19 145. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it
 20 were set forth fully herein.

21 146. IBM copied Plaintiff's inventions, which are now part of the IBM Eclipse
 22 Foundation source code available for download at www.Eclipse.org (eg, see Eclipse code
 23 version 2.0.1 that include Plaintiff's inventions.)

24
 25 147. IBM has been engaged in a similar pattern and copied the inventions of other
 26 inventors.
 27
 28

1 148. IBM negotiated with Plaintiff to joint venture with her on numerous occasions
2 between 1994 and 2011, and to promote her Web application products with which she was
3 engaged in a pilot trial with France Telecom in 2001. IBM provided office space to Plaintiff at
4 IBM, Sunnyvale in 1994 and also at IBM, San Mateo, CA in 2003.
5

6 149. IBM offered to buy Plaintiff's patent portfolio in 2006, which Plaintiff turned
7 down.

8 150. **The Executive Branch of the U.S. Government played a very important**
9 **founding role in the IBM Eclipse Foundation**, as did SAP and IBM.
10

11 151. All of the activity of the IBM Eclipse Foundation has gone on in stealth (silence
12 as fraud) to such an extent that not many know of the Eclipse code.
13

14 152. IBM is the initial Agreement Steward, commissioned along with the U.S.
15 Government to collusively kill Plaintiff's valuable Web application patents (used by all
16 Defendants without a license) in multiple District Courts, Appellate Courts and USPTO/ PTAB.
17

18 153. The IBM Eclipse Foundation installed the Eclipse code at JPMorgan for Web
19 banking applications as a showcase system and awarded JPMorgan as best of breed using Eclipse
20 code that includes Plaintiff's patented inventions and technology without a license. *See Exhibit*
21 **16.**

22 154. IBM and SAP held Board membership in the IBM Eclipse Foundation Board and
23 also held strategic roles managing the IP in the IBM Eclipse Foundation. **Exhibit 16.**
24

25 155. Both, IBM and SAP's key customer is JPMorgan and they ensured that the judges
26 in the Delaware District Court and CAFC and the U.S. Supreme Court did not allow Plaintiff to
27 be heard, even though JPMorgan did not provide clear and convincing evidence of invalidity of
28

1 the '500, '158 and '492 patents, contrary to the 35 U.S.C. Section 282 of the Patent Act, and
 2 Supreme Court Ruling in *Fletcher* and Patent Prosecution *History*.

3 156. **CAFC's medical interference breached multiple laws**, depriving
 4 Plaintiff of the protections of the Bill of Rights, fourteenth Amendment, 35 U.S.C.
 5 §282 of the Patent Act, Civil Rights Act, American Disabilities Act, FRCP Rule
 6 60(b), 60(d). Plaintiff's need to attend to her health in medical distress is an "inalienable right,"
 7 a fundamental and compelling interest, guaranteed by the Bill of Rights. CAFC abridged this
 8 right, causing medical injury to Plaintiff. CAFC dismissed the case without a hearing or
 9 an opening appeal brief, when *pro se* Plaintiff, a senior citizen with disabilities from
 10 illness, genuinely trying to meet court rules and deadlines, was in medical distress, to
 11 which the CAFC was notified. CAFC's dismissal did not advance a legitimate government
 12 interest. Where fundamental rights are infringed, strict scrutiny is the test and the challenged
 13 law is generally struck down. *Shapiro v. Thompson*, 394 U.S. 618 (1969). CAFC's erratic and
 14 disparate treatment of Plaintiff are the hallmarks of invidious discrimination. *Romer v. Evans*,
 15 517 U.S. 620, 631 (1996). CAFC infringed Plaintiff's liberty-based substantive due process. In
 16 such cases, the U.S. Supreme Court recognizes a non-textual "liberty" which then limits or voids
 17 laws limiting that liberty. *Roe v. Wade*, 410 U.S. 113 (1973).

21 **CHIEF JUSTICE ROBERTS RECUSED HIMSELF IN MICROSOFT**
 22 **CORP. V. I4I LIMITED PARTNERSHIP**, 563 U.S. (2011), DUE TO CONFLICTS
 23 OF INTEREST, MICROSOFT HOLDINGS AND HIS RELATIONSHIPS TO
 24 MICROSOFT COUNSEL THEODORE OLSON AND THOMAS HUNGAR,
 25 GIBSON DUNN & CRUTCHER LLP, **BUT DID NOT RECUSE FROM**
PLAINTIFF'S CASE.

26 157. Microsoft is a Third Party Requester in Re-Examinations of Plaintiff's patents, in
 27 particular, the '506 patent. Justice Roberts also has JPMorgan holdings. Eight Justices of the
 28

1 U.S. Supreme Court, CAFC Panel Judges and Delaware District Court Judges have
 2 conflicts of interest (financial, relationship or other) in a litigant, JPMorgan,
 3 Microsoft, and IBM, per their own annual financial disclosure statements. They are
 4 precluded from ruling in Cases 15-691, 14-1495 and 1:12-cv-282, and any of
 5 Plaintiff's cases, voiding *ab initio* all judgments.

7 **158. JUDGE ANDREWS ADMITTED HE BOUGHT STOCK IN
 8 JPMORGAN DURING THE PENDENCY OF THE CASE:**

9 **159. Delaware District Court Judges Robinson and Andrews had conflicts of**
 10 **interest in JPMorgan, when Judge Robinson issued the Markman ruling and**
 11 **judgment in favor of JPMorgan in May 2014. Plaintiff is guaranteed the protections**
 12 **of 28 U.S.C. §§ 455, 144 and Canons 2 and 3 and FRCP 60(d) and 60(b) which also**
 13 **give the Court the power to grant relief to a party from a judgment, yet she was**
 14 **denied these protections. Judge Andrews admitted three years into the case he bought direct**
 15 **JPMorgan stock during the pendency of the JPMorgan Case No. 1:12-cv-282. Judges have**
 16 **conflicts of interest in multiple litigants in Plaintiff's patent cases.**

18 **3. FOLLOWING THE TRADE SECRET THEFT FROM PLAINTIFF, AT
 19 LEAST IBM, SAP, MICROSOFT, APPLE, SAMSUNG USED PLAINTIFF'S
 20 TRADE SECRETS TO MANUFACTURE IOT PRODUCTS WITH WEB
 21 APPLICATIONS IN CHINA, VIETNAM, INDIA AND OTHER FOREIGN
 22 COUNTRIES AND EXPORT THOSE PRODUCTS TO THE UNITED
 23 STATES, HURTING DOMESTIC INDUSTRY**

24 **160. Plaintiff has provided ample evidence to the USITC of manufacture by**
 25 **Defendants of IoT products with Web applications in China, Vietnam, India and other foreign**
 26 **countries and export of those Products to the United States and unfair importation by Apple,**
 27 **Samsung and Facebook in USITC Case No. 337-1094, upon receipt of which the USITC**

1 instituted an investigation. Plaintiff incorporates by reference herewith that evidence provided by
 2 Plaintiff to USITC Case No. 337-1094 as if fully incorporated herein.
 3

4 **4. UNFAIR IMPORTATION BY APPLE, SAMSUNG**

5 161. Plaintiff has provided ample evidence to the USITC of unfair importation by
 6 Apple, Samsung and Facebook in USITC Case No. 337-1094, upon receipt of which the USITC
 7 instituted an investigation. Plaintiff incorporates by reference herewith that evidence provided by
 8 Plaintiff to USITC Case No. 337-1094 as if fully incorporated herein.
 9

10 **5. FALSE LABELING**

11 162. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it
 12 were set forth fully herein, in particular Section VI. A *supra*. It details Defendants' fraudulent
 13 Common Public License Agreement, unlawfully granting copyright rights. IBM copyright notice
 14 in all the header files in the Eclipse code (Plaintiff's inventions copied by IBM/Microsoft)
 15 evidences false labeling.
 16

17 **VI.C) FALSIFYING THE ORIGIN OF ECLIPSE CODE:**

18 **1. IBM DOES NOT DISCLOSE WHERE THE UNDERLYING CODE
 19 COMES FROM, NAMELY, PLAINTIFF.**

20 163. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it
 21 were set forth fully herein, in particular Section VI. A *supra*. It details Defendants' fraudulent
 22 Common Public License Agreement, unlawfully granting copyright rights. Plaintiff's inventions
 23 were copied by IBM/Microsoft in the Eclipse code. Defendants remained silent (as fraud) that
 24 the Eclipse code originated from Plaintiff's inventions copied by IBM/Microsoft for the Eclipse
 25 Foundation.
 26

27 **2. IBM CREATES FALSE ORIGIN CPL LICENSE AGREEMENT FROM
 28 ECLIPSE FOUNDATION, AND ACTS AS AGREEMENT STEWARD
 WITH FULL CONTROL OVER DISTRIBUTION**

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164. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it were set forth fully herein, in particular Section VI. A *supra*, which has detailed Defendants' fraudulent Common Public License Agreement, and IBM acting as Agreement Steward with full control over the distribution.

3. **IBM AND OTHER DEFENDANTS INTEND FOR THEIR FALSE ORIGIN DESIGNATIONS WITH A CPL LICENSE AGREEMENT, AND APPLE'S APP STORE, GOOGLE PLAY, AND SAMSUNG'S GOOGLE PLAY SELLING STOLEN GOODS, UNLICENSED WEB APPLICATIONS, CONCEALED FROM CONSUMERS, TO DECEIVE THE MARKET AND U.S. CONSUMERS AND THE COMPETITION.**

165. Plaintiff hereby incorporates all the preceding paragraphs by reference, as if it were set forth fully herein, in particular Section VI. A *supra*. It details Defendants' fraudulent Common Public License Agreement, remaining silent (as fraud) that the Eclipse Code originated from Plaintiff, to deceive the market, consumers and the competition of their theft and use and sale for profit of stolen code and property without paying Plaintiff any royalties for the use of her inventions and intellectual property. Likewise, Apple, Google and Samsung have concealed from the consumer that the Web applications in their respective app stores are unlicensed.

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VII. PATENT INFRINGEMENT

166. On April 19, 2011, the United States Patent and Trademark Office duly and legally issued U.S. Patent No. 7,930,340 ("the '340 Patent"), entitled "Network transaction portal to control multi-service provider transactions," to Plaintiff's company, WebXchange, Inc, in which she is the majority shareholder with 100% voting rights. Plaintiff Dr. Lakshmi Arunachalam is the inventor and assignee of all rights, title, and interest in the '340 Patent, including the right to recover damages for past infringement. A copy of the '340 Patent is attached to the Complaint as **Exhibit 18**.

1 167. The '340 patent is presumed to be, and is valid and enforceable. None of the
2 Defendants is licensed under the '340 patent.

3 168. Upon information and belief, each of the Defendants has infringed and is
4 continuing to infringe and contributorily infringes and/or induces others to infringe, one or more
5 claims of the '340 patent by engaging in acts constituting infringement under 35 U.S.C. § 271,
6 included but not limited to practicing one or more claims of the '340 patent, inducing others to
7 practice one or more of the said claims, and/or contributing to another's practice of one or more
8 of the said claims in this District and elsewhere in the United States, by means of at least IBM's
9 WebSphere and other web application/web application development platform and tools, products
10 and services; Apple's App Store, Google Play, Samsung's Google Play app store, and each of the
11 Web applications in App Store and Google Play and Samsung's Google Play, and the Web
12 applications displayed on a Web browser offered by each of the Defendants. The very fabric of
13 each Defendant runs on Plaintiff's patented inventions.

14 169. Each Defendant provides web application development platform, tools, web
15 applications, products and services, value-added network services, for example, online financial
16 services via electronic means accessible through several web sites, which include, but are not
17 limited to the following websites: <http://www.ibm.com>. Each Defendant's products and services
18 enable Web applications, for example, Web banking applications and other Web financial
19 transactional features, which are exemplified, in part, by screenshots of their opening screen
20 which displays the various value-added network services over the Web of the inventions of the
21 patent-in-suit, such as paying bills, transfer funds between accounts, and many, many more.

22 170. As reflected in the screenshots, each Defendant's and its customers' on-line (for
23 example, financial system) provides a plurality of value added network services over the Web,

1 applications displayed on a Web browser, for rendering value-added network services, for
2 example, financial services, practicing the claimed inventions. For example, a user of IBM's
3 system may choose to transfer assets between checking and savings accounts, or transfer assets
4 to third-parties by using the application displayed on a Web browser/Web page.
5

6 171. IBM makes, uses and sells, *inter alia*, at least WebSphere and its associated
7 programs, and Web application products and services, which comprise the claimed inventions
8 and operates without authority one or more apparatus, reflected in at least the websites cited
9 above, wherein the first computer system offering the value-added network service comprising
10 access to employee payroll information over the Web.
11

12 172. IBM makes and uses value-added network services, which are practiced using the
13 claimed inventions. Hereafter, the word "Service" refers to applications offered as value-added
14 network services provided by online service portals, including at least those listed above. These
15 sites and Services can be accessed from stationary personal computers or from mobile devices
16 such as laptop computers, smartphones and tablets. Upon accessing these sites, IBM's clients or
17 customers and their customers can, for example, view and service accounts; make transfers; pay
18 and manage bills online using Bill Pay ("Bill Pay") which allows users to schedule bill payments
19 through the Service; initiate and monitor Wire Transfer service; and make and manage
20 investments through, for example, the brokerage services, including trading securities. Through
21 IBM's customers' Mobile Banking websites and mobile apps, the customers or clients of IBM's
22 customers can access their accounts, transfer funds, pay bills, place and track brokerage trades,
23 and locate ATMs via mobile devices.
24

25 173. Upon information and belief, each Defendant has directly infringed and is
26 continuing to infringe one or more claims of the '340 Patent by operating without authority one
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1 or more real-time on-line two-way transaction system(s); and/or a computer implemented
2 method of permitting a real-time, online transaction by a user with at least one computing device
3 on the World Wide Web; and/or a system for purchasing a vehicle on the World Wide Web; or a
4 system for creating an online Web merchant; and/or a real-time online, two-way transaction
5 system, operating on the World Wide Web; reflected in the websites of each Defendant and
6 those cited above and/or app store, wherein the system; and/or said method; and/or system;
7 and/or system; and/or system comprising: IBM and each Defendant operates without authority
8 one or more system(s) and/or method, reflected in at least the websites of each Defendant and
9 those cited above and each app store, wherein claims 1-40 are met, with applications and
10 software including, but not limited to, those maintained on servers located in and/or accessible
11 from the United States under the United States/IBM's/each Defendant's control that, as reflected
12 in the website, *inter alia*, provide a real-time on-line two-way transaction system, the system
13 comprising:
14

- 15 a first server comprising memory and a processor;
16 a context manager executing on the first server supporting a first web page on the World
17 Wide Web, the context manager allowing access by a user from a multi-media device
18 through a Web application to a plurality of possible Web transactions from a plurality of
19 Web merchants;
20 a user transaction manager in the Web application allowing the user to enter into a first
21 transaction using a second web page;
22 an account settling manager in the Web application allowing the user to communicate
23 with a payment program running on a second server remote from the first server,
24 wherein the user can settle an account relating to the first transaction;

1 a switching component in the Web application that temporarily switches the user from
2 the first server to the second server to allow settling of the account, wherein the user
3 directly communicates with the payment program on the second server via an object
4 router, the object router allowing the user to perform a real-time transaction from the
5 Web application with at least one of the Web merchants while providing interaction and
6 management between the first and second servers.

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8
9 (iii) utilized and is utilizing computer equipment, including, without limitation, computer
10 equipment that stores, serves, and/or runs the foregoing.
11

12 174. Plaintiff's patented IoT machines are exemplified in the following screenshot:
13 **iOS 11 Home screen on iPhone 8 and App Store**, which has 2.2 million Web applications, pre-
14 packaged in Shenzhen, China by Foxconn and other Apple suppliers. See Apple Supplier List for
15 2017 at <https://images.apple.com/supplier-responsibility/pdf/Apple-Supplier-List.pdf>. Many of
16 Apple Suppliers are from China, such as Foxconn in Shenzhen, China, where the iPhone 8 is
17 assembled and pre-packaged with App Store with 2.2 million Web applications in iOS 11 before
18 it is imported into the United States.
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175. Other examples of Dr. Arunachalam's IoT machines are Web banking application
176 IoT devices such as Defendant JPMorgan Chase and Company's over 7000 Web applications it
177 advertises on its website as being part of just one Business Unit; Apple App Store Web
178 application developers Wells Fargo Bank, Citi's, Fulton Financial Corporation's, Citizen's
179 Financial Group's, Fiserv's, Presidio Bank's, Fremont Bank's, Bridge Bank's, SAP's financial
180 Web applications displayed on a Web browser; social networking like Facebook's Web
181 application, from IoT devices, mobile electronic devices, such as smart Phones, like all Apple
182 iPhones, iPads, iWatches, all Samsung products.

176. IBM's infringement is by making, using and selling without authority WebSphere
177 and other Web application development platforms, tools, Web applications, products and
178 services, and by making and using IBM Cloud Services. Each Defendant's infringement is by
179 making, using and selling without authority Web application development platforms, tools, Web
180 applications, app stores, products and services, and by making and using Cloud Services. IBM's
181 and each Defendant's infringement has injured Plaintiff. Accordingly, Plaintiff is entitled to

1 recover damages adequate to compensate it for such infringement, but in no event less than a
2 reasonable royalty, and an injunction to prohibit further infringement of the '340 Patent or future
3 compensation for use of the inventions.
4

5 177. IBM and each Defendant has directly infringed and is continuing to infringe one
6 or more claims of the '340 Patent by operating without authority one or more online and mobile
7 banking and other mobile Web application systems providing Services which utilize the
8 patented inventions.
9

10 178. Upon information and belief, IBM and each Defendant has infringed and is
11 continuing to infringe one or more claims of the '340 patent in this District and elsewhere in the
12 United States by practicing one or more of the claims of the '340 patent, by means of at least the
13 IBM WebSphere and other Web application development tools, platforms, app stores and Web
14 application products and services.
15

16 179. IBM's and each Defendant's online practices of the patented inventions are
17 reflected in, but not limited to, the websites <http://www.ibm.com> and the websites of IBM's and
18 each Defendant and each of IBM's and each Defendant's customers. IBM's and each of
19 Defendant's servers providing the claimed system are located in the United States under IBM's
20 and/or each Defendant's control.
21

22 180. Upon information and belief, IBM and each Defendant is contributing to the
23 infringement of the '340 patent by others in this District and elsewhere in the United States by
24 contributing to another's practice of one or more of the claims of the '340 patent. The direct
25 infringement occurs by activities of the end users of at least IBM's and each Defendant's Web
26 application products and services.
27

28 181. Upon information and belief, IBM and each Defendant is inducing the

1 infringement of the '340 patent by others in this District and elsewhere in the United States by
 2 inducing others to practice one or more of the claims of the '340 patent. The direct infringement
 3 occurs by activities of the end users of at least IBM's and each Defendant's Web application
 4 products and services.
 5

6 182. Upon information and belief, IBM and each Defendant, in its practicing one or
 7 more claims of the '340 patent, its inducing others to practice one or more claims of the '340
 8 patent, and/or its contributing to another's practice of one or more claims of the '340 patent, is
 9 acting despite an objectively high likelihood that its actions constitute infringement of the '340
 10 patent. Thus, at least IBM's and each Defendant's ongoing infringement of the '340 patent after
 11 notice of such infringement is willful.
 12

13 183. Upon information and belief, IBM's and each Defendant's infringement of the
 14 '340 patent will continue unless enjoined by this Court.
 15

16 184. As a direct and proximate consequence of IBM's and each Defendant's
 17 infringement of the '340 patent, Plaintiff has suffered and will continue to suffer irreparable
 18 injury and damages, in an amount to be determined at trial, for which Plaintiff is entitled to
 19 relief.
 20

21 185. Upon information and belief, IBM's and each Defendant's infringement of the
 22 '340 patent is exceptional and entitles Plaintiff to attorneys' fees and costs incurred in
 23 prosecuting this action under 35 U.S.C. § 285.
 24

VIII. OTHER ANTITRUST CASES AGAINST APPLE, MICROSOFT

25 186. *Pepper et al v. Apple, Inc., 4:11-cv-06714 (N.D. Ca):*
 26

27 28 "In re Apple iPhone Antitrust Litigation," accusing Apple of
 inflating consumer prices by charging illegally high commissions on
 iPhone software sales through its App Store and that it tried to

1 monopolize the market for iPhone apps from 2007 to 2013, and
 2 violated federal antitrust law. Apple charges app developers a 30
 3 percent commission on App Store consumer purchases. ... several
 4 iPhone buyers in California federal court, allege ... Apple has
 5 monopolized the sale of apps like messaging programs and games,
 6 leading to inflated prices...the commission, which they called a
 7 "monopolistic surcharge."...Apple Inc ... monopolized the market
 8 for iPhone apps by not allowing users to purchase them outside the
 9 App Store, leading to higher prices. Apple's practice of only
 10 allowing iPhones to run apps purchased from its own App Store was
 11 anticompetitive.

12 It is antitrust because Apple restricts what is allowed to be sold.
 13 Apple is known to block apps that might in any way compete with its
 14 business model. For example, Apple blocked a developer from
 15 publishing an app that allowed wireless iTunes sync before later
 16 adding it as a feature exclusive to newer iPhones. Apple also blocks
 17 any apps that might compete with their NFC payments, they block
 18 voice assistants from having any meaningful functionality, and they
 19 block web browsers from having their own rendering engine.

20 Where antitrust charge comes into play is not in the control of
pricing, but the control of access to the market. They have created a
monopoly where they can dictate terms, fees, and other aspects of
the market because the only path to that market is via their
storefront.

21 Apple illegally monopolized the sale of software applications
 22 (commonly called "apps") for use on Apple's iPhone, pursuant to
 23 which apps purchasers paid Apple a 30% monopolistic surcharge for
 24 each app purchased. Apps purchasers bought the apps directly from
 25 the alleged monopolist on an online store (called the "App Store")
 26 owned and operated by the monopolist. Apps purchasers alleged that
 27 they paid the full price for the apps directly to the monopolist, which
 28 kept all the monopoly profits for itself and that the developers of the
 software applications (the "apps developers") made no payment
 whatsoever to Apple, other than a \$99 annual registration fee.

In 2008, faced with the threat of competition from apps developers
 able to sell their products to iPhone users without providing any
 benefit to Apple, Apple made itself the exclusive distributor of
 iPhone apps and rigorously maintained a monopoly on the sale of
iPhone apps by approving only apps made by developers who gave
Apple the exclusive worldwide right to distribute those apps through
the Apple's App Store...It implies controlling the market via anti-
competitive practices. This is kind of like when Microsoft bundled
 IE to kill Netscape. They did not control a price."

1 “On January 18, 2018, Italy’s antitrust body opened a probe
 2 ...Lawsuits have been filed against Apple in California, New York
 3 and Illinois alleging the company defrauded users by slowing down
 devices without warning.”

4 188. **France antitrust probe:**

5 Apple faces a legal complaint in France, where so-called “planned
 6 obsolescence” is against the law.

7 189. **Apple iPod, iTunes antitrust litigation:**

8 The case *In re Apple iPod iTunes Antitrust Litigation* was filed as a
 9 class action in 2005 claiming Apple violated the U.S. antitrust
 10 statutes in operating a music-downloading monopoly that it created
 11 by changing its software design to the proprietary FairPlay encoding in
 12 2004, resulting in other vendors' music files being incompatible with
 13 and thus inoperable on the iPod. The suit initially alleged that five
 14 days after RealNetworks released in 2004 its Harmony technology
 15 making its music playable on iPods, Apple changed its software such
 16 that the RealNetworks music would no longer play on iPods.

17 190. **Apple and AT&T Mobility antitrust class action:**

18 In October 2007 (four months after the iPhone was introduced), Paul
 19 Holman and Lucy Rivello filed a class action lawsuit C07-05152 (N.D.
 20 Ca). The lawsuit referenced Apple's SIM lock on the iPhone and
 21 Apple's (at the time) complete ban on third-party apps, and alleged that
the 1.1.1 software update was "expressly designed" to disable
unapproved SIM cards and apps, an unfair, unlawful, and fraudulent
business practice (false advertising) under California's Unfair
Competition Law; that the combination of AT&T Mobility and Apple
was to reduce competition and cause a monopoly in violation of
California's antitrust law and the Sherman Antitrust Act; and that this
disabling was a violation of the Consumer Fraud and Abuse Act.

22 Shortly after this initial filing, other lawsuits were filed, and these
 23 were consolidated with the original Holman suit, bringing in additional
 24 plaintiffs and complaints: *Timothy Smith, et al., v. Apple, Inc. et al.*,
 25 No. C 07-05662 RMW, adding complaints related to ringtones, and
Kliegerman v. Apple, Inc., No. C 08-948, bringing in allegations under
 26 the federal Magnuson- Moss Warranty Act. The combined case title
 27 was changed to "*In Re Apple & AT&TM Antitrust Litigation.*"

28 191. **European antitrust investigation:**

1 In 2008, Apple agreed to cut the price UK consumers pay to download
 2 music for their iPods after a formal complaint to the European
 3 Commission from the UK consumer group *Which?* demonstrated
 4 higher prices in UK for the same iTunes songs sold elsewhere in the
 5 EU. The Commission began an antitrust investigation in 2007 of
 6 Apple's business practices after the complaint was made.

7 192. **eBook price-fixing lawsuit:**

8 United States v. Apple, Inc. In April 2012, the U. S. Justice
 9 Department (USDOJ) and 33 U.S. states brought a civil antitrust
 10 action against Apple, HarperCollins, Macmillan Publishers, Penguin
 11 Books, Simon & Schuster, and Hachette Book Group, Inc., alleging
 12 violations of the Sherman Act. The suit was filed in the S.D. of
 13 NY and alleges the defendants conspired to restrain retail price
 14 competition in the sale of e-books because they viewed Amazon's
 15 price discounting as a substantial challenge to their traditional business
 16 model. Regarding Apple in particular, the federal complaint alleged
 17 that "Apple facilitated the Publisher Defendants' collective effort to
 18 end retail price competition by coordinating their transition to an
 19 agency model across all retailers. Apple clearly understood that its
 20 participation in this scheme would result in higher prices to
 21 consumers. In such an agency-model, publishers set prices rather than
 22 sellers. Fifteen states and Puerto Rico also filed a companion federal
 23 case in Austin, Texas, against Apple, Penguin, Simon & Schuster and
 24 Macmillan. In the same month, HarperCollins, Hachette and Simon &
 25 Schuster settled with both the DOJ and the state attorneys general,
 26 with HarperCollins and Hachette agreeing to pay Texas and
 27 Connecticut \$52 million in consumer restitution, leaving Apple,
 28 Penguin, and Macmillan as remaining defendants. On July 10, 2013,
 29 District Court Judge Denise Cote in Manhattan found Apple Inc. guilty
 30 of the violation of federal antitrust law, citing "compelling evidence"
 31 that Apple played a "central role" in a conspiracy with publishers to
 32 eliminate retail competition and the prices of e-books.

33 193. **High-Tech Employee Antitrust Litigation:**

34 In 2014, Apple settled out of court both an antitrust lawsuit and a
 35 related class-action suit regarding cold calling employees of other
 36 companies.

37 194. **iTunes price-switching class action:**

38 In June 2009, a group of consumers filed the class action suits *Owens*
 39 *v. Apple, Inc.* and *Johnson v. Apple Inc.* against Apple on behalf of

1 American individuals who purchased iTunes gift cards and who were
 2 then unable to use the cards to purchase iTunes music at the price
 3 advertised on the card because Apple raised the price of the music
 after it sold the cards to consumers.

4 **195. In-app purchases class action:**

5 In 2011, five parents filed a class action suit against Apple for "in-app"
 6 purchases, which are purchases that can be made within applications
 7 ("apps"). The parents contended that Apple had not disclosed that the
 8 "free" apps that were to be used by children had the potential to rack
 up fees without the parent's knowledge. Potentially 23 millions
 9 customers could make up the class. Apple offered a settlement option
 10 for customers who had fees in excess of \$30. In 2011 The FTC
 investigated similar claims. This settled for \$100 million.

11 **196. *Resellers v. Apple:***

12 In 2004, independent Apple resellers filed a lawsuit against Apple
 13 alleging the company used misleading advertising practices by using
 14 unfair business practices that harmed the resellers' sales while
 15 boosting Apple-owned outlets, in effect by favoring its own outlets
 16 over those of its resellers. The lawsuit claimed that Apple favored
 17 company-owned stores by providing significant discounts
 18 unavailable to independent dealers. The complaint alleged Apple's
 acts in favoring its own stores constituted breach of contract, false
advertising, fraud, trade libel, defamation, and intentional
interference with prospective economic advantage. As of 2006,
 Apple reached settlements with all of the plaintiffs.

19 **197. It is profitable not to comply: Amazon "App Store":**

20 In 2011, Apple filed suit against Amazon.com alleging trademark
 21 infringement, unfair competition, and dilution under the Lanham
 22 Act and related California state law over Amazon's use of the "App
 23 Store" phrase relating to Amazon's "Amazon Appstore Developer
 24 Portal" and Amazon's alleged other similar uses of the phrase. ...
 25 Apple motioned the court for a preliminary injunction to bar
 26 Amazon from using the "App Store" name but, in July 2011, U.S.
 District Judge Phyllis Hamilton, presiding over Apple's case against
 Amazon, denied Apple's motion. ... In July 2013, Apple dropped the
 lawsuit.

27 **198. *U.S. v. Microsoft, No. 98-1232 (TPJ); No. 98-1233 (TPJ):*** Defendants have
 28

1 violated the nation's antitrust laws through predatory and anticompetitive behavior and kept "an
2 oppressive thumb on the scale of competitive fortune," as District Court Judge Jackson stated in
3 2000 in the Microsoft case. Judge Jackson's findings of fact in the Microsoft case apply equally
4 to Plaintiff's case herein, in that Microsoft, IBM, SAP, Apple, Samsung, Fiserv stifled Plaintiff
5 in the Web applications and IoT market and Defendants maintained their collusive monopoly
6 power by anticompetitive means and attempted to monopolize the Web applications and IoT
7 market as well as unlawfully tying their Web applications to their respective (for example, iOS)
8 operating system in the IoT device market — all in violation of the Sherman Antitrust Act. Tom
9 Miller, the attorney general of Iowa, said, "Judge Jackson's decision is a broad-based and
10 compelling finding of liability, of law-breaking." Microsoft used a monopoly in personal
11 computer operating systems to stifle innovation and bully competitors. Likewise, **Defendants**
12 **used a monopoly in IoT operating systems and Web applications to stifle innovation and**
13 **bully competitors.** Like Microsoft, Defendants have "demonstrated ... use ... prodigious
14 market power and immense profits to harm any firm that insists on pursuing initiatives that could
15 intensify competition against one of Defendants' "core products." A central conclusion in the
16 government's case — and in the judge's findings of fact — was that Microsoft tied its Web
17 browser to the Windows operating system to gain market share for its browser and put Netscape
18 at a disadvantage. Microsoft had every right to tie the browser to the operating system, if the
19 company could demonstrate a plausible consumer benefit. But there was no consumer benefit.
20 Likewise, Defendants tied Web applications to the iOS or Android operating system and to
21 Apple App Store and Samsung's Google Play in IoT devices to gain market share for their Web
22 applications and to put Dr. Arunachalam at a disadvantage. Defendants have not been able to
23 demonstrate a plausible consumer benefit or public interest, but only evidence that their scheme
24
25
26
27
28

1 has been part of a larger campaign to quash innovation that threatens their monopoly position.

2 "Microsoft's decision to tie Internet Explorer to Windows cannot truly be explained as an attempt
 3 to benefit consumers and improve the efficiency of the software market generally, but rather as
 4 part of a larger campaign to quash innovation that threatened its monopoly position." Microsoft's
 5 campaign against Netscape, as well as its decision to develop its own version of the Java
 6 programming language and encourage other companies to use it instead of the authorized
 7 version, prevented Netscape and Java from competing on the merits. Likewise, Defendants
 8 campaign against Plaintiff, as well as their decision to develop their own version of the CPL
 9 License Agreement from stolen code from Dr. Arunachalam, and encourage other companies to
 10 use it instead of the authorized licensed version of Dr. Arunachalam's patented technologies,
 11 prevented Plaintiff and other small Web application developers from competing on the merits.
 12 Because, like Microsoft, Defendants "achieved this result through exclusionary acts that lacked
 13 procompetitive justification," the judge in the Microsoft case wrote: "the court deems
 14 Microsoft's conduct the maintenance of monopoly power by anticompetitive means" and this
 15 court must deem Defendants' conduct "the maintenance of monopoly power by anticompetitive
 16 means." "Microsoft's anticompetitive actions," the Judge wrote, "trammelled the competitive
 17 process through which the computer software industry generally stimulates innovation" to "the
 18 optimum benefit of consumers." Likewise, Defendants' anti-competitive actions trammelled the
 19 competitive process through which the Web applications industry generally stimulates
 20 innovation to optimum benefit of consumers.

21 199. Likewise, numerous antitrust cases against Samsung, IBM, SAP, Microsoft
 22 and other Defendants abound, too numerous to be detailed here.

23 **IX. INJURY TO PLAINTIFF AND MARKET**

1 **LIST OF VICTIM(S) & ASSOCIATED VICTIM(S) & INFILCTED**
 2 **INJURY(S):**

- 3 **A] PLAINTIFF/VICTIM: SUBSTANTIAL FINANCIAL DAMAGE,**
 PERSONAL AND PHYSICAL INJURY
- 4 **B] PROTESTING INVENTORS: FINANCIAL DAMAGE**
- 5 **C] INCIDENTAL COMPETING BUSINESS: FINANCIAL DAMAGE**
- 6 **D] THE PUBLIC TRUST & WELFARE: FINANCIAL DAMAGE.**

7 200. Injury to the Plaintiff is of the order of trillions of dollars. But for the injury
 8 inflicted upon Plaintiff by each Defendant through anti-competitive conduct and antitrust
 9 violations, Plaintiff should have been the largest technology company in the world.

10 201. Defendant's antitrust violations have injured Plaintiff's domestic industry and
 11 have also injured the domestic industry. Defendants' antitrust violations have injured domestic
 12 Web application development, production and employment of Web application development
 13 engineers, domestic Web application distribution and employment of Web application
 14 distribution sales and marketing people. This has injured Plaintiff's minority-owned, woman-
 15 owned, senior citizen-owned business by the abuse Defendants subjected Plaintiff to.

16 202. Furthermore, Defendants inflicted physical injury and injury to Plaintiff's
 17 physical health and have subjected Plaintiff to emotional duress and having to work long hours
 18 that have been detrimental to Plaintiff's health and contributed to Plaintiff's illness and
 19 deterioration of Plaintiff's health, for which no amount of money Defendants pay can restore
 20 Plaintiff's health.

21 203. Defendants' antitrust violations have caused property damage, financial damage
 22 to Plaintiff and her assets, properties and her companies and to the shareholders of her
 23 companies.

1 204. Injury to Competition has been stupendous. Apple and Samsung control 80% of
 2 the market share in the IoT market and app store market, with 10% going to Amazon. This
 3 leaves only 10% left for smaller companies and other players. The injury here includes lost
 4 Customers, Sales and Profits; affecting Import Volume, Market Penetration, and Resulting Loss
 5 of Market Share; Decreased Production and Employment; causing Underpricing and affecting
 6 Ability to Further Increase Exports; Injury Related to the Price- and Output-Fixing Cause of
 7 Action; Injury Related to the Trade Secret Cause of Action; Injury Related to the False
 8 Designation of Origin Cause of Action; Plaintiff's Trade Secrets were Stolen for the Benefit of
 9 the Entire Web Apps market.

10 205. The same conditions – the existence of supracompetitive pricing, reduced
 11 consumer choice among market alternatives, and reduced output and supply – demonstrate that
 12 Apple's monopolistic conduct has likewise injured competition in the iPhone Web apps market.

13 206. The iPhone Web apps market lacks all of the indicia of competitiveness. Because
 14 Apple has unlawfully cornered the nationwide (and, indeed, worldwide) distribution market for
 15 iPhone Web apps, the iPhone Web apps market has been harmed generally by Apple's
 16 anticompetitive conduct, which antitrust laws were enacted to remedy.

21 X. RELEVANT MARKET ALLEGATIONS

22 207. Apple did not obtain iPhone customers' knowledgeable contractual consent to
 23 Apple's monopolization of and monopoly pricing in the Web apps market. The market for
 24 iPhone Web applications is thus an economically distinct product market, and the Web
 25 applications that are distributed within that market have no acceptable substitutes.

26 **ALL THE DEFENDANTS ARE ASSOCIATED IN FACT WITH CORRUPT**
 27 **ACTIVITY CROSSING STATE LINES AND INTERNATIONAL BORDERS**

208. This is a complex civil action for antitrust and RICO remedies authorized by the federal statutes at Sherman Act Sections 1 and 2 and 18 U. S. C. 1961 et seq.; for declaratory and injunctive relief; for actual, consequential and exemplary damages; and for all other relief which this Court deems just and proper under all circumstances which have occasioned this complaint. See Sherman Act Sections 1 and 2 (Antitrust) and 18 U.S.C. §§1964(a) and (c) ("Civil RICO"). This complaint is a verified complaint for declaratory and injunctive relief and damages from racketeering, conspiracy against rights by engaging in [And continuing.] a pattern of racketeering activity, treason [And misprision of treason.], antitrust and related claims against IBM, SAP America, Inc. ("SAP"), JPMorgan Chase and Company ("JPMorgan"), Hon. Richard G. Andrews, Apple, Samsung, Facebook, and all the Defendants, and DOES 1-100 [Corruptly associated in fact.].

209. The primary cause of this action is a widespread criminal enterprise engaged in a *pattern of racketeering and antitrust activity* across State lines and international, and a conspiracy to engage in *racketeering and antitrust activity* involving numerous RICO predicate acts during at least the past ten (10) calendar years.

II

210. The RICO Offenses committed by Defendants are at least:

A) VARIATIONS OF THE CRIMINAL ENTERPRISE OBJECTIVE

- 1) TO MAKE AN UNJUST ENRICHMENT ON PLAINTIFF'S PATENTS,**
 - 2) TO DISTRIBUTE PLAINTIFF'S PATENTS BY TAINTED COPYRIGHT,**
 - 3) UNDER COLOR OF A PUBLIC / PRIVATE ENTITY [ECLIPSE].**

211. The FBI defines a criminal enterprise as a group of individuals with an identified hierarchy, or comparable structure, engaged in significant criminal activity.

1 212. These organizations often engage in multiple criminal activities and have extensive
2 supporting networks. The terms Organized Crime and Criminal Enterprise are similar and often
3 used synonymously. However, various federal criminal statutes specifically define the elements
4 of an enterprise that need to be proven in order to convict individuals or groups of individuals
5 under those statutes.

7 **B. TRANSNATIONAL ORGANIZED CRIME**

8 213. Those self-perpetuating associations of individuals who operate transnationally for the
9 purpose of obtaining power, influence, and monetary and/or commercial gains, wholly or in part
10 by illegal means, while protecting their activities through a pattern of corruption and/or violence,
11 or while protecting their illegal activities through a transnational organizational structure and the
12 exploitation of transnational commerce or communication mechanisms.

14 214. The FBI defines significant racketeering activities as those predicate criminal acts that are
15 chargeable under the Racketeer Influenced and Corrupt Organizations statute. These are found in
16 Title 18 of the United States Code, Section 1961 (1) and include the following federal crimes:

18 **III**
19 **STATUTES RELATING TO THE CRIMINAL ENTERPRISE**

20 215. The RICO statute, or Title 18 of the United States Code, Section 1961(4), defines an
21 enterprise as "any individual, partnership, corporation, association, or other legal entity, and any
22 union or group of individuals associated in fact although not a legal entity."

23 216. The Continuing Criminal Enterprise statute, or Title 21 of the United States Code,
24 Section 848(c)(2), defines a criminal enterprise as any group of six or more people, where one of
25 the six occupies a position of organizer, a supervisory position, or any other position of
26 management with respect to the other five, and which generates substantial income or resources,

1 and is engaged in a continuing series of violations of subchapters I and II of Chapter 13 of Title
2 21 of the United States Code.

- 3 1. MAIL FRAUD
- 4 2. WIRE FRAUD
- 5 3. MONEY LAUNDERING
- 6 4. OBSTRUCTION OF JUSTICE
- 7 5. TRAFFICKING IN COUNTERFEIT GOODS
- 8 6. INTERSTATE TRANSPORTATION OF STOLEN PROPERTY

9
10 i) **ANCILLARY OBJECTIVES OF THE CRIMINAL ENTERPRISE**

11 Conspiracy:

- 12 a) TO DEFRAUD AND CORRUPT THE USPTO
- 13 b) TO CORRUPT PUBLIC PROGRAMS
- 14 c) TO CORRUPT PUBLIC OFFICIALS
- 15 d) TO CORRUPT PUBLIC MORALS
- 16 e) TO INDUCE TREASON BY THE COURTS AND THE USPTO
- 17 f) TO INDUCE MISPRISION OF TREASON BY ATTORNEYS
- 18 g) TO INDUCE MISPRISION OF FELONY
- 19 h) TO INDUCE A BREACH OF CONTRACT TO PLAINTIFF'S DETRIMENT
- 20 i) TO INDUCE THE COURTS TO FAIL TO UPHOLD THE CONSTITUTION AND A U. S.
21 SUPREME COURT DECISION RELATED TO GRANTS
- 22 j) TO DEPRIVE PLAINTIFF OF HER RIGHT TO PATENT PROSECUTION
23 HISTORY ESTOPPEL
- 24 k) TO DENY RIGHTS OF OWNERSHIP
- 25 l) TO DEPRIVE PLAINTIFF OF HER RIGHT TO COLLECT ROYALTIES
- 26 m) TO INDUCE DOMESTIC & FOREIGN CONTRIBUTORS BY TAINTED
27 COPYRIGHT COLORING PLAINTIFF'S PATENT (FALSE PRETENSE)

- n) TO FRAUDULENTLY PROCESS A COPYRIGHT APPLICATION [FALSE FILING (PERJURY).]
 - o) TO WRONGFULLY CONVERT PLAINTIFF'S PATENT WITH INTENT TO PERMANENTLY DEPRIVE, COMPOUNDED BY RECEIVING STOLEN PROPERTY [THEFT OF PATENTS AND TRADE SECRETS]

XI. THE NEED FOR PRELIMINARY RELIEF

217. In the absence of preliminary relief, consumers will be deprived of their choice of Web applications and consumers and the public and inventors/Web application developers will be deprived of the benefits of competition during the pendency of this action. Relief at the conclusion of this case cannot remedy the damage done to consumers and the public and inventors/Web application competitors during the interim.

218. In addition, the damage to competitors and competition during the pendency of this case that would occur in the absence of preliminary relief cannot practically be reversed later.

219. Aided by Apple's and Samsung's anticompetitive conduct, Apple's and Samsung's share of the Web applications market has increased dramatically from 500 apps in 2007 to approximately 80% or more in 2017. In the absence of interim relief, Apple's and Samsung's share of the Web applications market will grow substantially as a result, among other things, of Apple's and Samsung's tying of their Web applications to App Store/Google Play and iOS/Android in IoT devices and other anticompetitive practices.

220. Apple's and Samsung's Web application competitors will be effectively foreclosed from important opportunities to supply alternative Web applications to customers so long as the tie-in and Apple's and Samsung's other exclusionary practices continue. Particularly because of the market's network effects, the significant increase in Apple's and Samsung's share

1 of the Web applications market that will result in the absence of preliminary relief will tip the
2 market in Apple's and Samsung's favor and accelerate its dominance and competition's demise.

3 221. In addition, the barriers that exist to the entry of new competitors or the expansion
4 of smaller existing competitors, including network effects, mean that dominance once achieved
5 cannot readily be reversed.

6
7 222. In the absence of preliminary relief, the increase in Apple's and Samsung's
8 positions that will result from their continuing illegal conduct will so entrench it (and so weaken
9 its competitors) that the cost of reversing Apple's and Samsung's imminent domination of the
10 Web applications' market "could be prohibitive." See *United States v. Microsoft Corporation*,
11
12 980 F. Supp. 537, 544 (D.D.C. 1997).

13 **XII. CLAIMS FOR RELIEF**

14 **COUNT I: PATENT INFRINGEMENT**

15 223. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

16
17 224. Plaintiff has provided evidence, *supra*, that Defendants infringed Plaintiff's '340
18 patent claims.

19 **COUNT II: DEFENDANTS' VIOLATION OF SHERMAN ACT SECTIONS 1 AND 2**

20
21 225. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

22
23 226. Plaintiff has provided evidence, *supra*, that Defendants violated Sherman Acts
Sections 1 and 2.

24
25 **COUNT III: ANTITRUST RACKETEERING CONSPIRACY TO FIX PRICES AND**
26 **CONTROL ACCESS TO PLAINTIFF'S CODE AND MARKET BY ALL DEFENDANTS**
27 **AND DOES 1-100**

28 227. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

1 228. Plaintiff has clearly provided a preponderance of evidence, *supra*, of:

2 (1) Defendants' violations of 18 U.S.C. §§ 1962 (b), (c) and (d);

3 (2) Defendants' liability under 18 U.S.C. §1964(c) for treble damages;

4 (3) That Defendants conspired to engage in antitrust racketeering activity

5 related to The IBM Eclipse Foundation in one of four ways specified in

6 18 U.S.C. §§1962 and the Sherman Act;

7

8 229. Defendants' acquisition and maintenance of an interest in and control of an

9 enterprise engaged in and conspiracy to engage in a pattern of antitrust racketeering activity

10 under 18 U.S.C. §§ 1961(5), 1962(b), (c) and (d) and the Sherman Act has been detailed *supra*.

11

12 230. Defendants' fraudulent Common Public License ("Agreement") has been shown

13 *supra* to be further proof of their conspiracy. The Common Public License is a contract that

14 violates Sections 1 and 2 of the Sherman Antitrust Act.

15

16 231. Likewise, the Agreement between Apple and Google with their respective App

17 Store and Google Play Web App Providers has been shown *supra* that each is a contract in

18 violation of Sections 1 and 2 of the Sherman Antitrust Act.

19

20 232. It has been shown *supra* that Eclipse Foundation members demonstrate irrational

21 coordinated action, confirming their conspiracy and intent to injure U.S. and foreign competitors,

22 share editing The Eclipse Code.

23

24 233. The activities of the Defendants in The IBM Eclipse Foundation violated the

25 provisions of 18 U.S.C. §§1962 (b) or (c). The IBM Eclipse Foundation is a conspiracy amongst

26 the Defendants to violate the provisions of 18 U.S.C. §§1962 (b) or (c) and hence of (d).

27 **COUNT IV: DEFENDANTS MISAPPROPRIATING PLAINTIFF'S TRADE SECRETS**

28 234. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

1 235. Plaintiff has provided evidence, *supra*, that Defendants meet all the elements of
2 Trade Secret Misappropriation.

3 236. Plaintiff has provided evidence, *supra*, that she developed and maintained
4 advanced trade secrets related to her intellectual property on the Internet of Things — Web
5 applications displayed on a Web browser.

6 237. Plaintiff has provided evidence, *supra*, that IBM and Microsoft stole Plaintiff's
7 trade secrets, evident from the Eclipse Foundation.

8 238. Plaintiff has provided evidence, *supra*, that following the trade secret theft from
9 Plaintiff, at least IBM, SAP, Microsoft, Apple, Google, Samsung used Plaintiff's trade secrets to
10 manufacture IoT products with Web applications in China, Vietnam, India and other foreign
11 countries and export those infringing products to the United States.

12 239. Plaintiff has provided evidence, *supra*, of unfair importation by Apple, Samsung.

13 240. Plaintiff has provided evidence, *supra*, of false labeling by all Defendants.

14
15 **COUNT V: DEFENDANTS' FALSIFYING THE ORIGIN OF ECLIPSE CODE AND**
16 **REMAINING SILENT (AS FRAUD) THAT WEB APPLICATIONS IN APP STORE**
17 **AND GOOGLE PLAY ARE UNLICENSED**

18 241. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

19 242. Plaintiff has provided evidence, *supra*, that IBM did not disclose where the
20 underlying code came from, namely, Plaintiff.

21 243. Plaintiff has provided evidence, *supra*, that IBM created false origin CPL License
22 Agreement from Eclipse Foundation, acting as Agreement Steward with full control over
23 distribution.

244. Plaintiff has provided evidence, *supra*, that IBM and other Defendants intended for their false origin designations with a CPL License Agreement to deceive the market and U.S. consumers and the competition.

245. Plaintiff has provided evidence, *supra*, that Defendants remained silent (as fraud) that Web applications in App Store and Google Play are unlicensed, and deceived the consumers by concealing from them that they sell stolen goods.

COUNT VI: VIOLATION OF 18 U.S.C. §§1964(c) AND DEFENDANTS FRAUDULENTLY PROCURED RE-EXAMS/IPR/CBM REVIEWS

246. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

247. Plaintiff has provided evidence, *supra*, that Plaintiff is entitled to treble damages under 18 U.S.C. §§1964(c). Defendants' inducing enforcement of a fraudulently procured Reexaminations/IPR/CBM Reviews violated the antitrust laws and provides a basis for a claim of treble damages, because it caused a substantial anticompetitive effect.

**COUNT VII: BREACH OF SOLEMN OATH OF OFFICE TO AID AND ABET
ANTITRUST VIOLATIONS BY CORPORATE DEFENDANTS AND TREASON
COMMITTED BY DEFENDANTS AND DOES 1-100**

248. Plaintiff incorporates all of the above paragraphs as though fully set forth herein

249. Plaintiff has provided evidence, *supra*, that Defendants, and DOES 1-100, judges, Administrative Agency judges and officials, attorneys and the United States, USDOJ, U.S. Attorneys breached their solemn oaths of office and willfully committed treason, in not defending the Law of the Land, U.S. Supreme Court ruling in *Fletcher* prohibiting quashing a granted patent, and failing to uphold the contract terms with the inventor/Plaintiff of Patent Prosecution History Estoppel, as per CAFC ruling in *Aqua Products*.

250. Judicial and Agency Incidentals, U.S. Attorney and Attorneys named as

1 Incidentials in this case (i) breached their solemn oaths of office in not enforcing U.S. Supreme
2 Court Chief Justice Marshall's ruling in *Fletcher v. Peck*, 10 U.S. 87 (1810), prohibiting the
3 quashing of Government-issued Patent Contract Grants, even by the highest authority; (ii) failed
4 to abide by Patent Prosecution History Estoppel, as per the terms of the Patent Contract Grant,
5 which has been further affirmed by the Federal Circuit's recent ruling in *Aqua Products Inc. v.*
6 *Matal*, 15-1177, October 2017, reversing all Decisions by courts and the PTAB, including the
7 Federal Circuit's own past rulings, that did not consider Patent Prosecution History; (iii) argued
8 otherwise ignoring their solemn oaths to uphold the Law of the Land; and (iv) aided and abetted
9 Corporate Defendants' antitrust violations. It is unconstitutional for the USPTO, PTAB or AIA
10
11 or even any court, even the Supreme Court, to invalidate a Granted Patent.
12

13 251. Judicial, Agency and Attorney Incidentals engaged in unconstitutional,
14 anticompetitive conduct with a specific intent to aid and abet Corporate Defendants to
15 monopolize the iPhone and other IoT devices' Web applications market. Specifically,
16 Defendants entered into a conspiracy and price fixing amongst IBM, SAP, Apple, Samsung,
17 Microsoft and JPMorgan, aiding and abetting them to steal Plaintiff's patented technology and
18 source code and distribute it without paying Plaintiff a license fee for the use of her patented
19 technology.
20

**COUNT VIII: UNLAWFUL EXCLUSIVE DEALING AND OTHER
EXCLUSIONARY AGREEMENTS IN VIOLATION OF SECTION 1 OF THE
SHERMAN ACT**

24 252. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

26 253. Apple's agreements with Web Application developers and others pursuant to
27 which such companies agree not to license, distribute, or promote non-Apple products (or to do
28 so only on terms that materially disadvantage such products), and its agreements with OEMs

1 restricting modification or restrictive customization of core functions, unreasonably restrict
 2 competition and thus violate Section 1 of the Sherman Act. These agreements unreasonably
 3 restrain trade and restrict the access of Apple's competitors to significant channels of
 4 distribution, thereby restraining competition in the Web applications market, among other
 5 markets. Evidence has been provided *supra* that IBM's CPL Agreement is exclusionary in
 6 violation of the Sherman Act.

8 254. The purpose and effect of these agreements are to restrain trade and competition
 9 in the Web applications and IoT device markets. These agreements violate Section 1 of the
 10 Sherman Act, 15 U.S.C. § 1.

12 255. Even if Apple (or IBM) modified certain of its exclusionary agreements, the
 13 continuing anticompetitive effect of the agreements is substantial; the modified agreements are
 14 themselves anticompetitive and there is a serious threat that, unless enjoined, Apple (and IBM)
 15 will reimpose the unlawful terms that it has only recently expressed an intention not to enforce.

17 256. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
 18 for all the Defendants, IBM, SAP, Samsung, Microsoft, Fiserv and the rest of the Defendants.

19 **COUNT IX: UNLAWFUL TYING IN VIOLATION OF SECTION 1 OF THE SHERMAN ACT**

21 257. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

22 258. IoT devices and Apple's Web applications are separate products. They are sold in
 23 different markets; their functions are different; there is separate demand for them; and they are
 24 treated by Apple and by other industry participants as separate products. It is efficient for Apple
 25 not to tie them and/or to permit OEMs to distribute IoT devices without Apple's Web
 26 applications. Apple has tied and plans again to tie its IoT devices to its separate Web
 27 applications.

1 applications, which has monopoly power, in violation of Section 1 of the Sherman Act, 15
2 U.S.C. § 1.

3 259. The purpose and the effect of this tying are to prevent customers from choosing
4 among Web applications on their merits and to foreclose competing Web apps from an
5 important channel of distribution, thereby restraining competition in the Web apps market.

6 260. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
7 for all the Defendants, IBM, SAP, Google, Samsung, Microsoft, Fiserv and the rest of the
8 Defendants.

9

10 **COUNT X: MONOPOLIZATION OF THE IOT
11 MARKET IN VIOLATION OF SECTION 2 OF THE SHERMAN ACT**

12 261. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.
13
14 262. Apple possesses monopoly power in the market for IoT devices. Through the
15 anticompetitive conduct described herein, Apple has willfully maintained, and unless restrained
16 by the Court will continue to willfully maintain, that power by anticompetitive and unreasonably
17 exclusionary conduct. Apple has acted with an intent illegally to maintain its monopoly power in
18 the IoT market, and its illegal conduct has enabled it to do so, in violation of Section 2 of the
19 Sherman Act, 15 U.S.C. § 2.

20
21 263. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
22 for all the Defendants, IBM, SAP, Google, Samsung, Microsoft, Fiserv and the rest of the
23 Defendants.

24

25 **COUNT XI: ATTEMPTED MONOPOLIZATION OF THE WEB
26 APPLICATIONS' MARKET IN VIOLATION OF SECTION 2 OF THE
27 SHERMAN ACT (SEEKING DAMAGES AND EQUITABLE RELIEF)**

28 264. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

1 265. Apple has targeted Web application products that have the potential to compete
2 with or facilitate the development of products to compete with IoT devices and thereby to erode
3 Apple's IoT device monopoly. Apple has willfully engaged, and is engaging, in a course of
4 conduct, including tying and unreasonably exclusionary agreements, in order to obtain a
5 monopoly in the Web applications market, and there is a dangerous probability that, unless
6 restrained, it will succeed, in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2. Apple
7 has acted with a specific intent to monopolize, and to destroy effective competition in the Web
8 applications market.

9
10 266. Defendant Apple has engaged in exclusionary, predatory and anticompetitive
11 conduct with a specific intent to monopolize the iPhone Web applications market. Specifically,
12 Apple has attempted unlawfully to acquire monopoly power by: (a) designing the iPhone iOS as
13 a closed system and installing security measures and program locks for the specific purpose of
14 preventing Third Party App downloads; (b) establishing the App Store as the exclusive
15 worldwide distributor of iPhone Web apps; and (c) enforcing the App Store's unlawfully
16 acquired market position by terminating or threatening to terminate Web apps developers who
17 sell Web apps in competition with Apple and by voiding the warranties of iPhone consumers
18 who buy competing Web apps.

19
20 267. Apple's anticompetitive actions have created a dangerous probability that Apple
21 will achieve monopoly power in the Web applications market because Apple has already
22 unlawfully achieved an economically significant degree of market power in that market and has
23 effectively foreclosed new and potential entrants from entering the market or gaining their
24 naturally competitive market shares.

25
26 268. Apple's attempted acquisition of monopoly power has reduced output and

1 competition and resulted in increased, supracompetitive prices for products sold in the iPhone
 2 Web applications market and, thus, harms competition generally in that market.

3 269. Plaintiff has been injured in fact by Apple's attempted monopolization because
 4 she has been: (a) deprived of payment for use of her Web apps; (b) and she is deprived of
 5 customers; and/or (c) consumers are subjected to a lower output and supply of Web apps, hurting
 6 the market.

7 270. Apple's attempted monopolization of the iPhone Web applications market
 8 violates Section 2 of the Sherman Act, and its anticompetitive practices are continuing and will
 9 continue unless they are permanently enjoined. Plaintiff has suffered economic injury to its
 10 property as a direct and proximate result of Apple's attempted monopolization, and Apple is
 11 therefore liable for treble damages, costs, and attorneys' fees in amounts to be proved at trial.
 12

13 271. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
 14 for all the Defendants, IBM, SAP, Google, Samsung, Microsoft, Fiserv and the rest of the
 15 Defendants.

16

COUNT XII:
UNLAWFUL MONOPOLIZATION OF THE WEB APPLICATIONS MARKET IN
VIOLATION OF SECTION 2 OF THE SHERMAN ACT (SEEKING DAMAGES
AND EQUITABLE RELIEF)

17 272. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

18 273. Apple has acquired monopoly power in the iPhone Web applications market
 19 through unlawful, willful acquisition and maintenance of that power. Specifically, Apple has
 20 unlawfully acquired monopoly power by: (a) designing the iPhone iOS as a closed system and
 21 installing security measures and program locks for the specific purpose of preventing Web App
 22 downloads; (b) establishing the App Store as the exclusive worldwide distributor of iPhone Web
 23

1 apps; and (c) enforcing the App Store's monopoly status by terminating or threatening to
2 terminate Web apps developers who sell Web apps in competition with Apple and by voiding the
3 warranties of iPhone consumers who buy competing Web apps.
4

5 274. Apple's unlawful acquisition of monopoly power has hurt the market and, thus,
6 harms competition generally in that market.

7 275. Plaintiff has been injured in fact by Apple's unlawful monopolization because
8 Plaintiff has : (a) been cut out of the Web applications market, (b) has not been paid royalties
9 by Defendants; and (c) has been subjected to personal injury.
10

11 276. Apple's unlawful monopolization of the iPhone Web applications market violates
12 Section 2 of the Sherman Act, and its unlawful monopolization practices are continuing and will
13 continue unless they are permanently enjoined. Plaintiff has suffered economic injury to its
14 property as a direct and proximate result of Apple's unlawful monopolization, and Apple is
15 therefore liable for treble damages, costs, and attorneys' fees in amounts to be proved at trial.
16

17 277. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
18 for all the Defendants, IBM, SAP, Samsung, Microsoft, Fiserv and the rest of the Defendants.

19 **COUNT XIII: CONSPIRACY AND PRICE-FIXING BY APPLE WITH IBM, SAP,**
20 **MICROSOFT, JPMORGAN IN VIOLATION OF THE SHERMAN ACT**

21 278. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

22 279. Defendant Apple has engaged in anticompetitive conduct with a specific intent to
23 monopolize the iPhone Web applications market. Specifically, Apple entered into a conspiracy
24 and price fixing with IBM, SAP and JPMorgan, to steal Plaintiff's patented technology and
25 source code and distribute it without paying Plaintiff a license fee for the use of her patented
26 technology.
27
28

280. Apple's conspiracy and price fixing with IBM, SAP, and JPMorgan damaged Plaintiff of the order of trillions of dollars.

281. Plaintiff incorporates all of the above paragraphs as though fully set forth herein
for all the Defendants, IBM, SAP, Samsung, Microsoft, Fiserv and the rest of the Defendants.

**COUNT XIV: OBSTRUCTION OF JUSTICE BY ALL DEFENDANTS AND
DOES 1-100 AND INCIDENTALS (WHO COMMITTED
WILLFUL THEFT, COMMISSION OF A CRIME IN THE DELAWARE
SUPERIOR COURT IN FILING FALSE ACCOUNTING AS SEALED
DOCUMENTS AND CONCEALMENT BY INCIDENTALS GEORGE
PAZUNIAK, PAZUNIAK LAW OFFICE, LLC, AND O'KELLY ERNST AND
JOYCE, LLC TO AID AND ABET ANTITRUST VIOLATIONS BY
CORPORATE DEFENDANTS AND AIDING AND ABETTING SAID CRIME BY
INCIDENTAL ERIC M. DAVIS)**

282. Plaintiff incorporates all of the above paragraphs as though fully set forth herein.

283. Defendants committed obstruction of justice and induced Incidentials George

Pazuniak, Pazuniak Law Office, LLC to aid and abet antitrust violations by corporate Defendants, and Defendants colluded with said Incidentals in violations of the law. Said Incidentals (i) committed obstruction of justice; (ii) argued falsely in Court, concealing that Plaintiff's patents are protected by Patent Prosecution History Estoppel and by U.S. Supreme Court's ruling in *Fletcher v. Peck* prohibiting the quashing of a Granted Patent by even the highest authority; (iii) committed willful theft of Principal-Client-Beneficiary funds collected from infringers and refused to return it to Plaintiff for over 4 years to cover up for the malpractice George Pazuniak committed; (iv) committed a crime in the Delaware Superior Court in filing false accounting as a sealed filing and engaged in concealment to deprive Plaintiff of monies Pazuniak has unlawfully withheld from the Client IOLTA account and has not paid Plaintiff for over 4 years, for which George Pazuniak should be turned over to the law

1 enforcement authorities; and (v) damaged Plaintiff of the order of trillions of dollars; and (vi)
2 Incidental Eric M. Davis aided and abetted the crime committed by George Pazuniak.
3

4 284. Plaintiff herein alleges that obstruction of justice did in fact occur *whenever*
5 Plaintiff was deprived of specific relief from the federal district courts in Wilmington, Delaware;
6 in San Francisco, California; in Marshall, Texas; in the Third Circuit; the Federal Circuit and the
7 U.S. Supreme Court, and the USPTO/PTAB.

8 285. **PRAYER FOR RELIEF**

9 **ON COUNT 1 FOR PATENT INFRINGEMENT**

10 286. **WHEREFORE**, Plaintiff asks this Court to enter judgment against each and
11 everyone of the Defendants and against each Defendant's subsidiaries, affiliates, agents,
12 servants, employees and all persons in active concert or participation with them, in the amount of
13 five billion dollars to be paid by each Defendant, based on the number of Web transactions per
14 application displayed on a Web browser, as each of Defendants' and each Defendant's
15 customers' web sites has an infinite number of applications displayed on a Web browser and an
16 infinite number of transactions from said application(s), granting the following relief:
17

18 A. Enter judgment that each Defendant has infringed and continues to infringe
19 Plaintiff's '340 (the 7,930,340 patent) and all of her other remaining of her 11 patents in the
20 same patent portfolio deriving a priority date of 11/13/1995 from her provisional patent
21 applicationwith S/N 60/006,634;

22 B. Enter judgment that the '340 and all of Plaintiff's 11 patents are valid and
23 enforceable, as per Supreme Court ruling in *Fletcher*, prohibiting the quashing of a granted
24 patent, even by the highest authority;

25 C. Enter a preliminary and permanent injunction restraining and enjoining each

1 Defendant and its officers, agents, servants, employees, attorneys, and any persons in active
2 concert or participation with them who receive actual notice of the order by personal service or
3 otherwise, from any further manufacture, use, sales, offers to sell, or importations of any and all
4 of the products identified above;

5 D. An award of damages adequate to compensate Plaintiff for the infringement that
6 has occurred, together with prejudgment interest from the date infringement of the '340 and all
7 of Plaintiff's 11 Patents began, based on the number of Web transactions per application
8 displayed on a Web browser per each Defendant's and its customers' website(s), as each web
9 site has an infinite number of applications displayed on a Web browser offered as an online
10 service on the Web and an infinite number of transactions, totaling to at least \$5 billion; for
11 example, *one* of IBM's customers, namely, JPMorgan states on its website: "We process 50% of
12 all U.S. ecommerce volume including Amazon and Apple transactions." and that it has 7000+
13 business Web applications.

14 E. An award to Plaintiff of all remedies available under 35 U.S.C. § 284, up to treble
15 damages, pre-judgment and post-judgment interest and costs and all other remedies available
16 under 35 U.S.C. § 284;

17 F. An award to Plaintiff of all remedies available under 35 U.S.C. § 285;

18 G. A permanent injunction under 35 U.S.C. § 283 prohibiting further infringement of
19 the '340 and all of Plaintiff's 11 Patents, and, in the alternative, in the event injunctive relief is
20 not granted as requested by Plaintiff, an award of a compulsory future royalty, based on the
21 number of Web transactions per application displayed on a Web browser per each of IBM's and
22 its customers' web sites, as each of the IBM's and its customers' web sites has an infinite
23 number of applications displayed on a Web browser offered as an online service on the Web and
24

1 an infinite number of transactions, totaling to at least \$5 billion; and

2 H. Such other and further relief as this Court or a jury may deem proper and just;

3 287. **And Wherefore**, pursuant to the statutes at 18 U. S. C. 1964(a) and (c), Plaintiff
4 requests judgment against all Defendants and DOES 1 -100 as follows:

5 **ON COUNTS II, VIII-XIII: DEFENDANTS' VIOLATIONS OF SHERMAN ACT
6 SECTIONS 1 AND 2, AND ON COUNT III: CIVIL RACKETEERING/ANTITRUST
7 CONSPIRACY TO FIX PRICES AND CONTROL ACCESS TO PLAINTIFF'S CODE
8 AND MARKET BY ALL DEFENDANTS AND DOES 1-100**

9 288. That each Defendant's conduct violates Sections 1 and 2 of the Sherman Act, 15
10 U.S.C. §§ 1 and 2;

11 289. That each Defendant attempted to monopolize the market for Web apps in
12 violation of Section 2 of the Sherman Act, 15 U.S.C. § 2;

13 290. That each Defendant has willfully maintained its monopoly in the market for IoT
14 devices in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

15 291. Permanently enjoining each Defendant from monopolizing or attempting to
16 monopolize the IoT device Web applications market or, minimally, restraining each Defendant
17 from selling or distributing IoT devices without first obtaining a license from Plaintiff to the
18 Web applications in their app stores and without obtaining the consumers' express contractual
19 consent to (a) each Defendant's monopolization of and charging of monopoly prices in the IoT
20 devices' Web apps market;

21 292. That the Court enter such other preliminary and permanent relief as is necessary
22 and appropriate to restore competitive conditions in the markets affected by each Defendant's
23 unlawful conduct.

1 293. Awarding Plaintiff license fees per Web transaction per Web application per IoT
2 device to be paid by each Defendant, but not less than \$5B;

3 294. Awarding Plaintiff a sum of \$1B for personal injury to her health caused by
4 Defendants' misconduct and medical interference that caused Plaintiff the medical injury to her
5 health;

6 295. Awarding Plaintiff \$1B for the harassment that Plaintiff was subjected to by
7 Defendants;

8 296. That the Plaintiff recover the costs of this action.

9 297. Awarding Plaintiff treble damages for injuries caused by each Defendant's
10 violations of the federal and state antitrust and other laws;

11 298. Awarding Plaintiff reasonable attorneys' fees and costs; and

12 299. Granting such other and further relief as the Court may deem just and proper.

13 **ON COUNT IV: DEFENDANTS MISAPPROPRIATING PLAINTIFF'S TRADE SECRETS**

14 300. Plaintiff incorporates the relief requested under the section On Counts II, VIII-
15 XIII and III *supra*, as though fully set forth herein.

16 **ON COUNT V: DEFENDANTS' FALSIFYING THE ORIGIN OF ECLIPSE CODE AND
17 REMAINING SILENT (AS FRAUD) THAT WEB APPLICATIONS IN APP STORE
18 AND GOOGLE PLAY ARE UNLICENSED**

19 301. Plaintiff incorporates the relief requested under the section On Counts II, VIII-
20 XIII and III *supra*, as though fully set forth herein.

21 **ON COUNT VI: VIOLATION OF 18 U.S.C. §1964(c) AND SHERMAN ACT AND
22 DEFENDANTS FRAUDULENTLY PROCURED RE-EXAMS/IPR/CBM REVIEWS**

23 302. That this Court liberally construe the RICO and Antitrust laws and thereby find
24 that Defendants and DOES 1-100, both jointly and severally, have acquired and maintained, both

1 directly and indirectly, or have conspired to acquire and maintain an interest in and/or control of
2 and/or conspired to acquire and maintain control of, and/or have associated with an Antitrust
3 RICO *enterprise of persons* and of other individuals who were associated-in-fact, all of whom
4 engaged in, and whose activities did affect, interstate and foreign commerce, and/or engaged in
5 a *pattern of racketeering activity* and/or have conducted and/or participated, directly or
6 indirectly, or conspired to conduct and participate in the affairs of said RICO *enterprise* through
7 a *pattern of racketeering activity*; in violation of 18 U.S.C. §§ 1961(5) ("pattern" defined) and 18
8 U. S. C. 1962(b), (c) and (d) and Antitrust laws (Prohibited activities).

11 303. That Defendants and DOES 1-100 and all their directors, officers, employees,
12 agents, servants and all other *persons* in active concert or in participation with them, be enjoined
13 *temporarily* during pendency of this action, and *permanently* thereafter, from acquiring or
14 maintaining or from conspiring to acquire or maintain, whether directly or indirectly, any interest
15 in or control of any Antitrust RICO *enterprise of persons*, or of other individuals associated-in-
16 fact or that engages in a *pattern of racketeering activity* in violation of 18 U.S.C. §§ 1961(5) and
17 1962(b), (c), (d); or from conducting or participating or from conspiring to conduct or
18 participate in, either directly or indirectly, in the conduct of the affairs of or benefit in any
19 manner from any RICO *enterprise* through a *pattern of racketeering activity* in violation of 18
20 U.S.C. §§ 1961(5) and 1962(b), (c), (d); and from committing any more predicate acts in
21 furtherance of the Antitrust RICO *enterprise*, in violation of Antitrust laws, who are engaged in,
22 or whose activities do affect, interstate or foreign commerce, or alleged in Section VI and
23 COUNTs VI and II *supra..*

1 304. That all Defendants be required to account for all gains, profits, and advantages
2 derived from their several acts of *racketeering activity* in violation of 18 U. S. C. 1962(b), (c)
3 and (d) and Antitrust laws and from all other violation(s) of applicable State and federal law(s).
4

5 305. That judgment be entered for Plaintiff and against all Defendants for Plaintiff's
6 actual damages, and for any gains, profits, or advantages attributable to all violations of 18 U. S.
7 C. 1962(b), (c) and (d) and Antitrust laws, according to the best available proof, but not less than
8 \$5B each.

9 306. That all Defendants pay to Plaintiff treble (triple) damages, under authority of 18
10 U. S. C. 1964(c), for any gains, profits, or advantages attributable to all violations of 18 U. S. C.
11 1962(b), (c) and (d) and Antitrust laws, according to the best available proof, but not less than
12 \$5B each.

13 307. That Defendants' inducing enforcement of a fraudulently procured
14 Reexaminations/IPR/CBM Reviews violated the antitrust laws and provides a basis for a claim
15 of treble damages, because it caused a substantial anticompetitive effect and that all Defendants
16 pay to Plaintiff treble (triple) damages.

17 308. That all Defendants pay to Plaintiff all damages sustained by Plaintiff in
18 consequence of Defendants' several violations of 18 U. S. C. 1962(b), (c) and (d) and Antitrust
19 laws, according to the best available proof, but not less than \$5B each.

20 309. That all Defendants pay to Plaintiff her costs of the lawsuit incurred herein
21 including, but not limited to, all necessary research, all non-judicial enforcement and all
22 reasonable counsel's fees, at a minimum of \$690.00 per hour worked (Plaintiff's standard
23 professional rate at start of this action).

1 310. That all damages caused by all Defendants, and all gains, profits, and advantages
2 derived by all Defendants, from their several acts of racketeering in violation of 18 U. S. C.
3 1962(b), (c) and (d) Antitrust laws and from all other violation(s) of applicable State and federal
4 law(s), be deemed to be held in constructive trust, legally foreign with respect to the federal zone
5 [sic], for the benefit of Plaintiff, Her heirs and assigns.

6
7 311. That Plaintiff have such other and further relief as this Court deems just and
8 proper, under the circumstances of this action.

9
10 **ON COUNT VII: BREACH OF SOLEMN OATH AND TREASON COMMITTED BY
DEFENDANTS, AND DOES 1-100**

11 312. That this Court report to the FBI and USDOJ that Defendants and DOES 1-100
12 and Incidentals, judges, Administrative Agency judges and officials, attorneys, U.S. Attorneys
13 have breached their solemn oaths of office and willfully committed acts of treason in not
14 upholding the Law of the Land and Supreme Court ruling in *Fletcher* and CAFC's ruling in
15 *Aqua Products* on Patent Prosecution History Estoppel and that each of them be stripped of their
16 bar licenses to practice law.

17
18 313. That judgment be entered that all Orders in any and all of Plaintiff's cases in any
19 and all Courts and Admmistrative Agencies are void, as the judges lost their jurisdiction and
20 immunity.

21
22 314. That the Judges and USPTO/PTAB lost their jurisdiction and immunity and
23 therefore, their orders are void;

24
25 315. That the Court have attorneys, judicial and agency Incidentals who breached
26 their solemn oaths of office in not enforcing the Law of the Land disbarred from practicing law;

1 316. That judgment be entered for Plaintiff and against all Defendants for Plaintiff's
2 actual damages, and for any gains, profits, or advantages attributable to all violations of 18 U. S.
3 C. Section 2382 and Treasons laws of the United States *supra*, according to the best available
4 proof, but not less than \$5B each.
5

6 317. That all Defendants pay to Plaintiff treble (triple) damages, under authority of 18
7 U. S. C. 1964(c), for any gains, profits, or advantages attributable to all violations of 18 U. S. C.
8 Section 2382 and Treasons laws of the United States *supra*, according to the best available proof,
9 but not less than \$5B each.
10

11 318. That all Defendants pay to Plaintiff all damages sustained by Plaintiff in
12 consequence of Defendants' several violations of 18 U. S. C. Section 2382 and Treasons laws of
13 the United States *supra*, according to the best available proof, but not less than \$5B each.
14

15 319. That all Defendants pay to Plaintiff Her costs of the lawsuit incurred herein
16 including, but not limited to, all necessary research, all non-judicial enforcement and all
17 reasonable counsel's fees, at a minimum of \$690.00 per hour worked (Plaintiff's standard
18 professional rate at start of this action).

19 320. That all damages caused by all Defendants, and all gains, profits, and advantages
20 derived by all Defendants, from their several acts of 18 U. S. C. Section 2382 and Treasons laws
21 of the United States *supra* and from all other violation(s) of applicable State and federal law(s),
22 be deemed to be held in constructive trust, legally foreign with respect to the federal zone [*sic*],
23 for the benefit of Plaintiff, Her heirs and assigns.
24

25 321. That Plaintiff have such other and further relief as this Court deems just and
26 proper, under the full range of relevant circumstances which have occasioned the instant action.
27

28 **ON COUNT XIV: OBSTRUCTION OF JUSTICE BY ALL DEFENDANTS AND DOES 1-100**

1
2 322. That the Court turn over any and all Defendants and DOES 1-100 and Incidentals
3 engaged in obstruction of justice and aiding and abetting antitrust violations by Defendants and
4 crimes committed by Incidentals and Defendants to Law Enforcement and FBI and that they lose
5 their bar license to practice law.

6
7 323. That the Court have Incidentals George Pazuniak, Pazuniak Law Office and
8 O'Kelly Ernst and Joyce LLC and U.S. DOJ Attorney Claire T. Cormier each pay Plaintiff
9 \$100M for crimes committed against Plaintiff.

10
11 324. That the Court turn George Pazuniak and USDOJ Attorney Claire T. Cormier to
12 Law Enforcement for each committing a crime and turn O'Kelly Ernst and Joyce LLC, and Eric
13 M. Davis to Law Enforcement for aiding and abetting a crime committed by George Pazuniak.

14 Dated: February 26, 2018 Respectfully submitted,

15
16 *Lakshmi Arunachalam*
17 Lakshmi-Arunachalam, Ph.D.
18 222 Stanford Avenue, Menlo Park, CA 94025
19 650 690 0995; Laks22002@yahoo.com

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27
28 **VERIFICATION**

I, Dr. Lakshmi Arunachalam, Plaintiff in the above entitled action, hereby verify under penalty of perjury, under the laws of the United States of America, that the above statement of facts and laws is true and correct, according to the best of my current information, knowledge, and belief, so help me God, pursuant to 28 U.S.C. 1746(1). See the Supremacy Clause in the Constitution for the United States of America, as lawfully amended (hereinafter "U. S. Constitution").

Dated: February 26, 2018

1
2 Signed: Lakshmi Arunachalam
3 Printed: Dr. Lakshmi Arunachalam

4 **DEMAND FOR TRIAL BY JURY**

5 325. Plaintiffs hereby demand a trial by jury on all issues so triable.

6 326. Pursuant to 18 U.S.C. 1961(9), Plaintiff now formally incorporates by reference
7 all of the following Exhibits, as if set forth fully herein, to wit: Exhibits 1-8, 11, H, 12, 14-18 and
8 the Eclipse code version 2.0.1, which is available for download at www.eclipse.org, which
9 incorporates the inventions of Plaintiff and others, demonstrating a pattern of antitrust
10 racketeering activity by Defendants.

11 327. Attachments I of List of Incidentals/Tortfeasors, Misconduct & Basis of Liability,
12 is incorporated by reference herein, as if fully incorporated herein, and is attached herewith.

13 DATED: February 26, 2018

14 Respectfully submitted,

15
16 Lakshmi Arunachalam

17
18 222 Stanford Avenue
19 Menlo Park, CA 94025
20 650 690 0995
laks22002@yahoo.com

Dr. Lakshmi Arunachalam
Individual
Plaintiff
Dr. Lakshmi Arunachalam

1 **List of Exhibits**
2

3 **Exhibit 1:** 2002-08-29-Common-Public-License-Version-0-5-IBM-Eclipse-Foundation
4 accessed-Jun-24-2015-Aug-29-2002 (1)

5 **Exhibit 2:** Evidence on Chandler

6 **Exhibit 3:** 2002-09-05-Minutes-of-the-Eclipse-Board-Meeting-Sep-05-2002 (1)

7 **Exhibit 4:** 2003-05-28-Minutes-of-the-Eclipse-Board-Meeting-May-28-2003 (1)

8 **Exhibit 5:** 2003-06-25-Minutes-of-the-Eclipse-Board-Meeting-Jun-25-2003 (1)

9 **Exhibit 6:** 2004-09-15-Minutes-of-the-Eclipse-Board-Meeting-Sep-15-2004 (1)

10 **Exhibit 7:** 2005-02-28-Minutes-of-the-Eclipse-Board-Meeting-Feb-28-2005 (1)

11 **Exhibit 8:** 2002-09-03-Instantiations-IBM-Partnership-Sep-03-2002 (1)

12 **Exhibit 11:** CPL Agreement of Eclipse code, which shows IBM-SAP collusion from the Eclipse
13 website. The documents in the Exhibit are true and accurate copies of files downloaded from
14 www.eclipse.org on April 18, 2016: 2002-08-29 Common Public License (CPL) Version 0.5
15 http://www.eclipse.org/legal/cpl-v05.html ; 2004-09-02 Tentative IP Log for eclipse.platform,
16 eclipse.jdt and eclipse.pde

17 http://www.eclipse.org/projects/ip_log.php?projectid=eclipse.platform,eclipse.jdt,eclipse.pde ;
18 and 2004-09-02 Eclipse CPL to EPL Transition Plan http://www.eclipse.org/legal/cpl2ep1/

19 **Exhibit H:** Excerpts from the priority Provisional Application 60/006,634 as filed in the USPTO
20 dated 11/13/1995, from which Plaintiff's portfolio of a dozen patents derive their priority date.

21 **Exhibit 12:** Judge William Alsup's Order in Case No. C 08-05149 WHA (N. Dt. CA) on
22 February 17, 2009.

23 **Exhibit 14:** excerpts pp. 175-181, 189-191 of the prosecution history of the related U.S. Patent
24 No. 6,212,556, the ('556) patent in the same priority chain as the '506 patent.

1 Exhibit 15: excerpts pp 82-93 from the prosecution history of the parent U.S. Patent No.
2 5,778,178, the ('178) patent in the same priority chain as the '506 patent.

3 **Exhibit 16:** is a true and correct copy of the web page for eclipse.org where Eclipse code is
4 available for download including Plaintiff's inventions; list of members showing SAP,
5 JPMorgan, IBM as members; board of directors showing SAP as a Board member; board
6 meeting minutes of Dec 8, 2004 showing SAP's lead role; Eclipse awarded JPMorgan "Best
7 Deployment of Eclipse Technology in an enterprise" at EclipseCon March 6, 2007; article
8 entitled "JPMorgan raises the Bar for Banking Applications;" Amendment No. 8 to Form S-1
9 Registration statement for Facebook, Inc. showing JPMorgan, BofA, Barclays, Citigroup, Wells
10 Fargo; and list of tutorials, sample code on Eclipse SOAP, REST, OData services from SAP.
11

12 **Eclipse code version 2.0.1 is available for download at www.eclipse.org.**

13 **Exhibit 17:** SAP's Letter to Dr. Lakshmi terrorizing her.

14 **Exhibit 18:** Plaintiff's U.S. Patent No. 7,930,340.
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1 **DECLARATION OF DR. LAKSHMI ARUNACHALAM IN SUPPORT OF**
2 **PLAINTIFF'S ANTITRUST COMPLAINT**

3 I, Dr. LAKSHMI ARUNACHALAM, , declare:

4 I am the inventor and assignee of the patents-in-suit in the JPMorgan case 1:12-
5 cv-282 (D.Del.), and of U.S. Patent No. 7,930,340 ('340) and the 13 patents and applications, all
6 of which derive their priority date from my provisional patent application with S/N 60/006,634
7 filed November 13, 1995. I reside at 222 Stanford Avenue, Menlo Park, CA 94025. I am *pro se*
8 Plaintiff in the above-captioned action. I make this declaration based on personal knowledge and,
9 if called upon to do so, could testify competently thereto.

- 10
- 11 1. Attached as **Exhibit 1** is a true and correct copy of : 2002-08-29-Common-Public-
12 License-Version-0-5-IBM-Eclipse-Foundation accessed-Jun-24-2015-Aug-29-2002 (1).
13
- 14 2. Attached as **Exhibit 2** is a true and correct copy of Evidence on Chandler.
15
- 16 3. Attached as **Exhibit 3** is a true and correct copy of 2002-09-05-Minutes-of-the-Eclipse-
17 Board-Meeting-Sep-05-2002 (1).
18
- 19 4. Attached as **Exhibit 4** is a true and correct copy of 2003-05-28-Minutes-of-the-Eclipse-
20 Board-Meeting-May-28-2003 (1).
21
- 22 5. Attached as **Exhibit 5** is a true and correct copy of 2003-06-25-Minutes-of-the-Eclipse-
23 Board-Meeting-Jun-25-2003 (1).
24
- 25 6. Attached as **Exhibit 6** is a true and correct copy of 2004-09-15-Minutes-of-the-Eclipse-
26 Board-Meeting-Sep-15-2004 (1).
27
- 28 7. Attached as **Exhibit 7** is a true and correct copy of 2005-02-28-Minutes-of-the-Eclipse-
 Board-Meeting-Feb-28-2005 (1).

- 1 8. Attached as **Exhibit 8** is a true and correct copy of 2002-09-03-Instantiations-IBM-
- 2 Partnership-Sep-03-2002 (1).
- 3 9. Attached as **Exhibit 11** is a true and correct copy of CPL Agreement of Eclipse code,
- 4 which shows IBM-SAP collusion from the Eclipse website. These documents are true
- 5 and accurate copies of files downloaded from www.eclipse.org on April 18, 2016: 2002-
- 6 08-29 Common Public License (CPL) Version 0.5 <http://www.eclipse.org/legal/cpl-v05.html> ; 2004-09-02 Tentative IP Log for eclipse.platform, eclipse.jdt and eclipse.pde
- 7 http://www.eclipse.org/projects/ip_log.php?projectid=eclipse.platform,eclipse.jdt,eclipse.pde ; and 2004-09-02 Eclipse CPL to EPL Transition Plan
- 8 <http://www.eclipse.org/legal/cpl2epl/>
- 9 10. Attached as **Exhibit H** is a true and correct copy of Excerpts from the priority
- 10 Provisional Application 60/006,634 as filed in the USPTO dated 11/13/1995, from which
- 11 Plaintiff's portfolio of a dozen patents derive their priority date.
- 12 11. Attached as **Exhibit 12** is a true and correct copy of Judge William Alsup's Order in
- 13 Case No. C 08-05149 WHA (N. Dt. CA) on February 17, 2009.
- 14 12. Attached as **Exhibit 14** is a true and correct copy of excerpts pp. 175-181, 189-191 of the
- 15 prosecution history of the related U.S. Patent No. 6,212,556, the ('556) patent in the same
- 16 priority chain as the '506 patent.
- 17 13. Attached as **Exhibit 15** is a true and correct copy of excerpts pp 82-93 from the
- 18 prosecution history of the parent U.S. Patent No. 5,778,178, the ('178) patent in the same
- 19 priority chain as the '506 patent.
- 20 14. Attached as **Exhibit 16** is a true and correct copy of the web page for eclipse.org where
- 21 Eclipse code is available for download including Plaintiff's inventions; list of members

1 showing SAP, JPMorgan, IBM as members; board of directors showing SAP as a Board
2 member; board meeting minutes of Dec 8, 2004 showing SAP's lead role; Eclipse
3 awarded JPMorgan "Best Deployment of Eclipse Technology in an enterprise" at
4 EclipseCon March 6, 2007; article entitled "JPMorgan raises the Bar for Banking
5 Applications;" Amendment No. 8 to Form S-1 Registration statement for Facebook, Inc.
6 showing JPMorgan, BofA, Barclays, Citigroup, Wells Fargo; and list of tutorials, sample
7 code on Eclipse SOAP, REST, OData services from SAP.

8
9 15. Attached as **Exhibit 17** is a true and correct copy of SAP's terrorizing Letter to Dr.

10 Arunachalam.

11
12 16. Attached as **Exhibit 18** is a true and correct copy of Plaintiff's U.S. Patent No.

13 7,930,340.

14
15 17. Attached as **Attachment I** is a true and correct copy of List of Incidentials/Tortfeasors,
16 Misconduct & Basis of Liability.

17
18 18. I also certify that that the eclipse code, all versions, including version 2.0.1 is available
for download at www.eclipse.org.

19
20 I declare under the penalty of perjury under the laws of the United States and the
21 State of California and Delaware that the foregoing is true and correct. Executed this 26th day
22 of February, 2018 in Menlo Park, California.

23
24 222 Stanford Avenue
Menlo Park, CA 94025
25 650 690 0995, laks22002@yahoo.com

Lakshmi Arunachalam
26 Dr. Lakshmi Arunachalam

1 **CERTIFICATE OF MAILING**

2 I, Dr. Lakshmi Arunachalam, hereby certify that on February 26, 2018, I filed in person
3 an original and 18 copies of the attached Complaint, Dr. Arunachalam's Declaration and
4 Verification in support thereof, Exhibits 1-8, 11, H, 12, 14-18, Attachment I, Civil Cover Sheet
5 and 13 copies of Form A0-440, Summons in a Civil Action with the Clerk of the Court, United
6 States District Court for the Northern District of California, San Francisco Division at 450
7 Golden Gate Avenue, San Francisco, CA for filing and docketing in this case.

8
9 Lakshmi Arunachalam

10 Date: February 26, 2018

11 */s/Lakshmi Arunachalam/*

12 Signature of Plaintiff

13 Dr. Lakshmi Arunachalam

14 222 Stanford Ave,

15 Menlo Park, CA 94025

16 650 690 0995

17 Laks22002@yahoo.com

18

19

20

21

22

23

24

25

26

27

28

1 **ATTACHMENT 1: LIST OF INCIDENTALS/TORTFEASORS, MISCONDUCT &**
2 **BASIS OF LIABILITY**

3 a) **PRINCIPAL ATTORNEY(S) OF RECORD FOR CORPORATE DEFENDANTS:**

4 Incidental 1: Apple's ATTORNEY(S) OF RECORD: **WEIL GOTSHAL &**
5 **MANGES LLP,**

6 Incidental 2: **BRIAN E. FERGUSON,**

7 Incidental 3: **ROBERT T. VLASIS III,**

8 2001 M Street, N.W., Suite 600, Washington DC 20036; Tel: 202.682.7000

9 Incidental 4: Microsoft's ATTORNEY(S) OF RECORD: **KLARQUIST SPARKMAN**
10 **LLP,**

11 Incidental 5: **WINN GARTH**

12 (BREACH OF SOLEMN OATH; TREASON; COMMITTED FRAUD AND FAILED TO
13 DISCLOSE INFORMATION TO THE USPTO MATERIAL TO THE ADJUDICATION OF
14 THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
15 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
16 U.S. 87 (1810); FRAUDULENT OMISSIONS; OBSTRUCTION OF JUSTICE.)
17 121 SW Salmon St #1600, Portland, OR 97204; Tel: (503) 595-5300

18 Incidental 6: IBM's ATTORNEY(S) OF RECORD: **MAYNARD COOPER & GALE,**
19 **P.C.**

20 Incidental 7: **KEVIN J. CULLIGAN**

21 551 Fifth Avenue, Suite 2000, New York, NY 10176; Tel: 646.609.9282

22 Incidental 8: **KIRKLAND & ELLIS**

23 Incidental 9: **EDWARD C. DONOVAN, P.C.,**

24 655 Fifteenth Street, N.W., Washington, D.C. 20005-5793; Tel: 202.879.5289

25 Incidental 10: **SAMIR PANDYA;**

26 (ANTITRUST CO-CONSPIRATORS; INFRINGER, BREACH OF SOLEMN OATH,
27 TREASON; CIVIL RICO),

28 3999 West Chester Pike, Newtown Square, PA 19073, Tel: +1-610-661-1000;

1 Incidental 11: SAP's ATTORNEY(S) OF RECORD: **STERNE KESSLER**
2 **GOLDSTEIN & FOX;**

3 Incidental 12: **LORI GORDON;**

4 Incidental 13: **ROBERT STERNE;**

5 (BREACH OF SOLEMN OATH; TREASON; COMMITTED FRAUD AND FAILED TO
6 DISCLOSE INFORMATION TO THE USPTO MATERIAL TO THE ADJUDICATION OF
7 THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
8 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
9 U.S. 87 (1810); FRAUDULENT OMISSIONS; OBSTRUCTION OF JUSTICE; INDUCED
10 FALSE TESTIMONY BY EXPERT WITNESS MARVIN SIRBU TO USPTO AND
11 COURT ON MATERIAL FACTS AND LAW. COMMITTED WHITE COLLAR

1 CRIME; HARRASSED AND ABUSED SENIOR CITIZEN FEMALE
2 INVENTOR/PLAINTIFF;)

1100 New York Ave NW # 800, Washington, DC 20005; Tel: (202) 371-2600

3 **Incidental 14: JONES DAY,**

4 **Incidental 15: GREG LANIER,**

1755 Embarcadero Road, Palo Alto, CA 94303; Tel: 650.739.3941

5 **Incidental 16: MICHAEL PEARCE;**

6 (INFRINGER, ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH,
TREASON, CIVIL RICO);

7 270 Park Avenue, New York, NY, Tel: 212-270-6000;

8 **Incidental 17: JPMorgan's ATTORNEY(S) OF RECORD: SKADDEN, ARPS,
SLATE, MEAGHER & FLOM, LLP,**

9 **Incidental 18: DOUG NEMEC,**

10 **Incidental 19: EDWARD TULIN,**

11 **Incidental 20: DANIEL A. DEVITO,**

12 (BREACH OF SOLEMN OATH; TREASON: WILLFUL MISREPRESENTATION,
MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION TO THE FEDERAL
CIRCUIT AND TO THE DELAWARE DISTRICT COURT MATERIAL TO THE
ADJUDICATION OF THE CASE, NAMELY, PATENT PROSECUTION HISTORY
ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
FLETCHER V. PECK 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; OBSTRUCTION OF
JUSTICE; INDUCED FALSE TESTIMONY BY EXPERT WITNESS TO COURT ON
MATERIAL FACTS AND LAW. COMMITTED WHITE COLLAR CRIME.)

13 4 Times Square, New York, NY 10036; Tel: (212) 735-3000;

14 b) **ATTORNEY(S) OF RECORD ASSOCIATED-IN-FACT FOR MEMBER CORPORATION(S):**

15 **Incidental 21: Samsung's ATTORNEY(S) OF RECORD: COVINGTON &
BURLING LLP,**

16 **Incidental 22: STURGIS M. SOBIN,**

17 **Incidental 23: DANIEL VALENCIA,**

18 **Incidental 24: HWA YOUNG JIN**

19 One City Center, 850 Tenth Street, NW; Washington DC 20001; Tel: 202.682.7000

20 **Incidental 25: Facebook's ATTORNEY(S) OF RECORD: COOLEY LLP**

21 **Incidental 26: STEPHEN R. SMITH,**

22 **Incidental 27: LISA F. SCHWEIR,**

23 **Incidental 28: HEIDI L. KEEFE**

24 1299 Pennsylvania Avenue, NW, Suite 700, Washington, DC 20004;

25 Tel: 202.842.7800; 650.843.5000

26 **Incidental 29: Fiserv's ATTORNEY(S) OF RECORD: PERKINS COIE LLP,**

27 **Incidental 30: RAMSEY M. AL-SALAM,**

(BREACH OF SOLEMN OATH; TREASON; WILLFUL MISREPRESENTATION, MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION TO THE DISTRICT COURT AND TO THE FEDERAL CIRCUIT AND USITC MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; OBSTRUCTION OF JUSTICE; HARRASSED AND ABUSED SENIOR CITIZEN FEMALE INVENTOR/PLAINTIFF)

1201 3rd Ave #4900, Seattle, WA 98101; Tel: (206) 359-8000;

7 **Incidental 31: MICHAEL GALLAGHER:**

8 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH,
9 TREASON);

420 Montgomery Street, San Francisco, CA 94163; Tel: 800.869.3557; 866.249.3302;

10 **Incidental 32: Wells Fargo's ATTORNEY(S) OF RECORD: CARLSON CASPERS**

11 **Incidental 33: DOUGLAS J. WILLIAMS,**

12 (BREACH OF SOLEMN OATH; TREASON; WILLFUL MISREPRESENTATION, MADE
13 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
14 COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION TO THE
15 DELAWARE DISTRICT COURT MATERIAL TO THE ADJUDICATION OF THE CASE,
16 NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT
17 RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810);
18 FRAUDULENT OMISSIONS; OBSTRUCTION OF JUSTICE.)

19 Capella Tower, Suite 4200, 225 South Sixth Street, Minneapolis, MN 55402 USA
20 Tel. 612.436.9600

21 **Incidental 34: Citigroup's ATTORNEY(S) OF RECORD: DENTONS**

22 **Incidental 35: MARK NELSON,**

23 (BREACH OF SOLEMN OATH; WILLFUL MISREPRESENTATION, MADE
24 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
25 FRAUD AND FAILED TO DISCLOSE INFORMATION TO THE DELAWARE DISTRICT
26 COURT MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY, PATENT
27 PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF
28 JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
OMISSIONS; OBSTRUCTION OF JUSTICE.)

2000 McKinney Ave #1900, Dallas, TX 75201-1858; Tel: (214) 259-0900

24 **c) AGENCY(S) 'ADVERSELY DOMINATED' & 'CORRUPTLY ASSOCIATED-IN-FACT':**

25 **[1] USPTO:**

26 **[2] PTAB:**

27 **[3] USITC:**

28 **[4] US DEPT. OF JUSTICE:**

1
2 **Incidental 36: THE UNITED STATES PATENT AND TRADEMARK OFFICE,**

3 **Incidental 37: PATENT TRIAL AND APPEALS BOARD,**

4 **Incidental 38: BRIAN P. McNAMARA,**

5 **Incidental 39: STEPHEN C. SIU,**

6 **Incidental 40: KEVIN TURNER,**

7 **Incidental 41: JENNIFER BISK,**

8 **Incidental 42: SARAH CRAVEN,**

9 **Incidental 43: NATHAN KELLY,**

10 **Incidental 44: ZOILA CABRERA,**

11 (INFRINGERS; ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH;
12 TREASON; IN CORRUPT ASSOCIATION; OBSTRUCTION OF JUSTICE; BREACH
13 OF CONTRACT; BREACH OF PUBLIC TRUST; FALSE ADVERTISING; LURED
14 INVENTOR INTO FILING FOR A PATENT APPLICATION AND FAILED TO
15 UPHOLD PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT
16 RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810);
17 MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
18 COMMITTED FRAUD AND FAILED TO UPHOLD AND DISCLOSE INFORMATION
19 MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY, PATENT
20 PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF
21 JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
22 OMISSIONS; DENIED DUE PROCESS TO PLAINTIFF; DENIED FUNDAMENTAL
23 RIGHTS TO EMERGENCY MEDICAL CARE AND ACCESS TO THE COURT AND
24 TO JUSTICE TO PLAINTIFF; FAILED TO RECUSE DESPITE HOLDING STOCK
25 IN LITIGANT AND 'SANCTIONED' PLAINTIFF BY NOT PERMITTING HER
26 ACCESS TO ELECTRONIC FILING AND SUBJECTED HER TO CIVIL RIGHTS
27 DISCRIMINATION REQUIRING HER TO CALL A TELECONFERENCE CALL
28 WITH THE PTAB AND PARTIES TO REQUEST ENTRY OF FILINGS IN DOCKET,
IN RETALIATION AGAINST PLAINTIFF FOR FILING A MOTION TO RECUSE
THE JUDGES WITH DIRECT STOCK IN A LITIGANT AND FINANCIAL
CONFLICTS OF INTEREST; HARRASSED AND ABUSED SENIOR CITIZEN FEMALE
INVENTOR/PLAINTIFF; AIDED WHITE COLLAR CRIME BY SAP, MICROSOFT.
COMMITTED WHITE COLLAR CRIME.)

PO Box 1450, Alexandria, VA 22313-1450; Tel: 571.272.7000; 571.272.7822

23 **Incidental 45: U.S. DEPARTMENT OF JUSTICE:**

24 **Incidental 46: UNITED STATES**

25 (IN CORRUPT ASSOCIATION; INFRINGERS; ANTITRUST CO-CONSPIRATOR,
26 BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE; CIVIL
27 RICO; THE UNITED STATES ATTORNEY MADE AFFIRMATIVE
28 MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED FRAUD AND
FAILED TO DISCLOSE INFORMATION TO THE DISTRICT COURT AND TO THE
FEDERAL CIRCUIT MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY,
PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY

1 CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
2 OMISSIONS; **AIDED AND ABETTED WHITE COLLAR CRIME BY U.S.**
3 **ATTORNEY**);

4 **Incidental 47: U.S. ATTORNEY: CLAIRE T. CORMIER**

5 U.S. Attorney,
6 (BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE;MADE
7 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
8 FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO CASE, NAMELY,
9 PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY
10 CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810), TO THE
11 DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA IN THE CASES
12 AGAINST THE USPTO/PTAB; THE JUDGES, AND THE UNITED STATES; FRAUDULENT
13 OMISSIONS; **COMMITTED WHITE COLLAR CRIME.**)

14 150 Almaden Blvd Ste 900, San Jose, CA 95113-2009; Tel: (408) 535-5082.

15 **Incidental 48: USDOJ ATTORNEY: ALICE JOU**

16 (BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE;MADE
17 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
18 FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO CASE, NAMELY,
19 PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY
20 CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810), TO THE COURT
21 OF FEDERAL CLAIMS; FRAUDULENT OMISSIONS.)

22 Office of the Attorney General, U.S. Department of Justice

23 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, Tel: 202.514.2000;

24 **Incidental 49: U.S. INTERNATIONAL TRADE COMMISSION,**

25 **Incidental 50: JEFFREY HSU,**

26 **Incidental 51: CHARLES E. BULLOCK,**

27 **(MISFEASANCE; BREACH OF PUBLIC TRUST; (B) NONFEASANCE,**

28 **(C) MISFEASANCE;**

29 (IN CORRUPT ASSOCIATION; INFRINGER; ANTITRUST CO-CONSPIRATOR,
30 BREACH OF SOLEMN OATH; OBSTRUCTION OF JUSTICE;
31 MADE MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE
32 INFORMATION MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY,
33 PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY
34 CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
35 OMISSIONS; DENIED DUE PROCESS TO PLAINTIFF;)
36 500 E Street,SW, Washington, DC 20436; Tel: 202.205.2000

37 d) **COURT(S) 'ADVERSELY DOMINATED' & 'CORRUPTLY ASSOCIATED-IN-FACT':**

38 [5] **FEDERAL CIRCUIT:**

39 [6] **SUPREME COURT:**

40 [7] **STATE COURT:**

41 [8] **FEDERAL DISTRICT COURTS:**

1
2 **Incidental 52: THE UNITED STATES COURT OF APPEALS FOR THE**
3 **FEDERAL CIRCUIT (CAFC).**

4 **MAL-ADMINISTRATION OF JUSTICE**

5 **I(A) BREACH OF SOLEMN OATH,**

6 **(B) NONFEASANCE,**

7 **(C) MISFEASANCE,**

8 **(D) MALFEASANCE]**

9 (IN CORRUPT ASSOCIATION; ANTITRUST CO-CONSPIRATOR, BREACH OF
10 SOLEMN OATH; OBSTRUCTION OF JUSTICE; MADE AFFIRMATIVE
11 MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED FRAUD AND
12 FAILED TO DISCLOSE TO THE FEDERAL CIRCUIT INFORMATION MATERIAL TO
13 THE ADJUDICATION OF THE CASE, NAMELY, PATENT PROSECUTION HISTORY
14 ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
15 *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; DENIED DUE
16 PROCESS TO PLAINTIFF; DENIED FUNDAMENTAL RIGHTS TO EMERGENCY
17 MEDICAL CARE AND ACCESS TO THE COURT AND TO JUSTICE TO
18 PLAINTIFF; HARRASSED AND ABUSED SENIOR CITIZEN FEMALE
19 INVENTOR/PLAINTIFF; AIDED WHITE COLLAR CRIME BY SAP, JPMORGAN).

20 **Incidental 53: CAFC JUDGES**

21 (LOST JURISDICTION AND IMMUNITY;

22 **MAL-ADMINISTRATION OF JUSTICE**

23 **I(A) BREACH OF SOLEMN OATH,**

24 **(B) NONFEASANCE,**

25 **(C) MISFEASANCE,**

26 **(D) MALFEASANCE]**

27 (CONFLICTS OF INTEREST)

28 717 Madison Place N.W., Washington, D.C. 20439, Tel: 202.275.8000.

29 **Incidental 54: SUPREME COURT OF THE UNITED STATES,**

30 **BREACH OF PUBLIC TRUST AND**

31 **(B) NONFEASANCE,**

32 **(C) MISFEASANCE**

33 1 First St NE, Washington, DC 20543, Tel: (202) 479-3000

34 **Incidental 55: THE UNITED STATES DISTRICT COURT FOR THE**
35 **DISTRICT OF DELAWARE,**

36 **Incidental 56: RICHARD G. ANDREWS,**

37 **Incidental 57: LEONARD P. STARK,**

38 **(MAL-ADMINISTRATION OF JUSTICE**

39 **I(A) BREACH OF SOLEMN OATH,**

40 **(B) NONFEASANCE,**

41 **(C) MISFEASANCE,**

1 **(D) MALFEASANCE]**
2 (IN CORRUPT ASSOCIATION;
3 ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH; TREASON;
4 OBSTRUCTION OF JUSTICE; MADE AFFIRMATIVE MISREPRESENTATIONS AND
5 MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE
6 INFORMATION TO THE DISTRICT COURT MATERIAL TO THE ADJUDICATION OF
7 THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
8 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
9 U.S. 87 (1810); FRAUDULENT OMISSIONS; DENIED DUE PROCESS TO PLAINTIFF;
10 DENIED ACCESS TO THE COURT AND TO JUSTICE AND TO THE RIGHT TO
11 APPEAL TO PLAINTIFF. HARRASSED AND ABUSED SENIOR CITIZEN FEMALE
12 INVENTOR/PLAINTIFF; AIDED WHITE COLLAR CRIME BY GEORGE PAZUNIAK,
13 JPMORGAN.)

14 844 N. King Street, Wilmington, DE 19801, Tel: 302.573.6170

15 Incidental 58: **THE UNITED STATES DISTRICT COURT FOR THE**
16 **NORTHERN DISTRICT OF CALIFORNIA**, AND

17 Incidental 59: **EDWARD J. DAVILA**, AND

18 Incidental 60: **ELIZABETH D. LAPORTE**,

19 (**MAL-ADMINISTRATION OF JUSTICE**)

20 (**I(A) BREACH OF SOLEMN OATH**,

21 (**B) NONFEASANCE**,

22 (**C) MISFEASANCE**,

23 (**D) MALFEASANCE**)

24 LOST JURISDICTION AND IMMUNITY; CONFLICTS OF INTEREST;
25 IN CORRUPT ASSOCIATION;

26 ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH; TREASON;
27 OBSTRUCTION OF JUSTICE; MADE AFFIRMATIVE MISREPRESENTATIONS AND
28 MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE
29 INFORMATION TO THE DISTRICT COURT MATERIAL TO THE ADJUDICATION OF
30 THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
31 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
32 U.S. 87 (1810); FRAUDULENT OMISSIONS; HARRASSED AND ABUSED SENIOR
33 CITIZEN FEMALE INVENTOR/PLAINTIFF; DENIED DUE PROCESS TO PLAINTIFF;
34 DENIED ACCESS TO THE COURT AND TO JUSTICE TO APPEAL TO
35 PLAINTIFF. AIDED WHITE COLLAR CRIME BY U.S. ATTORNEY CLAIRE CORMIER.)
36 280 S 1st St, San Jose, CA 95113; Tel: (408) 535-5363; and
37 450 Golden Gate Ave, San Francisco, CA 94102; Tel: (415) 522-2000

38 Incidental 61: **U.S. DISTRICT COURT FOR THE EASTERN DISTRICT**
39 **OF TEXAS, MARSHALL DIVISION**, AND

40 Incidental 62: **J. RODNEY GILSTRAP**,

41 (**MAL-ADMINISTRATION OF JUSTICE**)

42 (**I(A) BREACH OF SOLEMN OATH**,

1 **(B) NONFEASANCE,**

2 **(C) MISFEASANCE,**

3 **(D) MALFEASANCE]**

4 IN CORRUPT ASSOCIATION;

5 ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH; TREASON,
6 OBSTRUCTION OF JUSTICE; MADE AFFIRMATIVE MISREPRESENTATIONS AND
7 MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE TO THE
8 DISTRICT COURT INFORMATION MATERIAL TO THE ADJUDICATION OF THE
9 CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME
10 COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87
11 (1810); FRAUDULENT OMISSIONS; DENIED DUE PROCESS TO PLAINTIFF;)

12 100 E Houston St, Marshall, TX 75670, Tel: (903) 935-2912

13 9 **Incidental 63: SUE L. ROBINSON,**

14 10 (LOST JURISDICTION AND IMMUNITY;

15 11 BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE; MADE
16 12 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
17 13 FRAUD AND FAILED TO DISCLOSE INFORMATION TO THE DISTRICT COURT IN
18 14 THE JPMORGAN CASE MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY,
19 15 PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY
20 16 CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
21 17 OMISSIONS);

22 18 919 North Market Street, 12th Floor, Wilmington, DE 19801, Tel: 302-777-0331

23 19 15 **Incidental 64: DELAWARE STATE SUPERIOR COURT, NEWCASTLE**

24 20 16 **COUNTY, AND**

25 21 17 **Incidental 65: ERIC M. DAVIS,**

26 22 18 **(MALADMINISTRATION OF JUSTICE;**

27 23 19 **(B) NONFEASANCE,**

28 24 20 **(C) MISFEASANCE,**

1 25 21 **(D) MALFEASANCE**

2 26 22 IN CORRUPT ASSOCIATION;

3 27 23 ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH; OBSTRUCTION
4 28 24 OF JUSTICE; MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL
5 1 25 OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION
6 2 26 MATERIAL TO THE ADJUDICATION OF THE CASE, NAMELY, PATENT
7 3 27 PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF
8 4 28 JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87 (1810); FRAUDULENT
9 5 1 OMISSIONS; DENIED DUE PROCESS TO PLAINTIFF; ENGAGED IN
10 6 2 CORRUPTION AND AIDED AND ABETTED WHITE COLLAR CRIME BY
11 7 3 GEORGE PAZUNIAK;

12 8 4 HARRASSED AND ABUSED SENIOR CITIZEN FEMALE INVENTOR/PLAINTIFF;)

13 9 5 500 N King St, Wilmington, DE 19801, Tel: (302) 255-0800

1 **ADDITIONAL INCIDENTALS/WRONGDOERS & ASSIGNED**
 2 **MISCONDUCT:**

3 INCIDENTALS/TORTFEASORS	4 CORRUPT ASSOCIATION(S)
5 <u>LEGISLATIVE AGENT(S)</u>	6 <u>BREACH OF SOLEMN OATH</u> 7 [(A) BREACH OF SOLEMN OATH, 8 (B) SEPARATION OF POWERS 9 (C) REVERSING ' <i>FLETCHER V PECK</i> , 10 (1810)]
11 LEAHY-SMITH AMERICA 12 INVENTS ACT (AIA) SPONSOR 13 1: 14 Incidental 66: <u>BARACK</u> 15 <u>OBAMA,</u> 16 The Office of Barack and Michelle 17 Obama 18 P.O. Box 91000, 19 Washington, DC 20066 20 Tel: 202-464-6903	21 <u>BREACH OF SOLEMN OATH</u>
22 AIA BILL SPONSOR 2: 23 Incidental 67: <u>JAMES P.</u> 24 <u>CHANDLER,</u> 25 10813 Tara Rd 26 Potomac, MD 20854, 27 (301) 765-0501	28 <u>BREACH OF SOLEMN OATH</u>
29 AIA BILL SPONSOR 3: 30 Incidental 68: <u>SEN. LEAHY,</u> 31 <u>PATRICK J. [D-VT]</u> 32 437 Russell Senate Bldg 33 United States Senate 34 Washington, DC 20510 35 Phone: (202) 224-4242	36 <u>BREACH OF SOLEMN OATH</u>
37 AIA BILL SPONSOR 4: 38 Incidental 69: <u>VISHAL AMIN,</u> 39 Intellectual Property Enforcement 40 Coordinator, 41 The White House, 42 1600 Pennsylvania Avenue NW 43 Washington, DC 20500, 44 Tel: 202-456-1111	45 <u>BREACH OF SOLEMN OATH</u>

46 Incidental 70: Citizen's ATTORNEY(S) OF RECORD: **JONES DAY**
 47 Incidental 71: **GREG LANIER,**

1 1755 Embarcadero Road, Palo Alto, CA 94303; Tel: 650.739.3941;

2 **Incidental 72:** Fulton's ATTORNEY(S) OF RECORD: **KILPATRICK TOWNSEND**
3 **AND STOCKTON, LLP,**

4 **(BREACH OF SOLEMN OATH; TREASON, WILLFUL**
5 MISREPRESENTATION, MADE AFFIRMATIVE MISREPRESENTATIONS AND
6 MATERIAL OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE
7 INFORMATION TO THE DELAWARE DISTRICT COURT MATERIAL TO THE
ADJUDICATION OF THE CASE, NAMELY, PATENT PROSECUTION HISTORY
ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
FLETCHER V. PECK 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; **OBSTRUCTION**
8 **OF JUSTICE.)**

9 1100 Peachtree St NW #2800, Atlanta, GA 30309; Tel: (404) 815-6500

10 **Incidental 73:** **FREMONT BANCORPORATION AND FREMONT BANK,**
11 **ASSIGNS AND AGENTS;**

12 (INFRINGERS; ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH,
TREASON);

13 39150 Fremont Blvd, Fremont, CA 94538; Tel: (510) 505-5221;

14 **Incidental 74:** Fremont Bank's ATTORNEY(S) OF RECORD: **PERKINS COIE LLP,**
15 **Incidental 75:** **RAMSEY M. AL-SALAM,**

16 **Incidental 76:** **OFFICE OF DISCIPLINARY COUNSEL,**

17 (IN CORRUPT ASSOCIATION;
18 BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE; MADE
19 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO THE
ADJUDICATION OF THE CASE, NAMELY, PATENT PROSECUTION HISTORY
ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
FLETCHER V. PECK 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; **AIDED AND**
20 **ABETTED WHITE COLLAR CRIME COMMITTED BY GEORGE PAZUNIAK;**
DENIED DUE PROCESS TO PLAINTIFF.)

21 405 North King Street, Suite 420, Wilmington, Delaware 19801, Tel: (302) 651-3931

22 **Incidental 77:** **O'KELLY, ERNST AND JOYCE, LLC**

23 (BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF JUSTICE; MADE
24 AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED
FRAUD AND FAILED TO DISCLOSE INFORMATION TO DISCLOSE INFORMATION TO
THE DELAWARE DISTRICT COURT IN THE JPMORGAN CASE AND FULTON BANK
CASE MATERIAL TO THE CASES, NAMELY, PATENT PROSECUTION HISTORY
ESTOPPEL AND U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
FLETCHER V. PECK 10 U.S. 87 (1810); FRAUDULENT OMISSIONS; **AIDED AND**
25 **ABETTED WHITE COLLAR CRIME BY GEORGE PAZUNIAK);**

26 901 N Market St #1000, Wilmington, DE 19801, Tel: (302) 295-4905

1 Incidental 78: **GEORGE PAZUNIAK, AND**
2 Incidental 79: **PAZUNIAK LAW OFFICE, LLC,**
3 **COMMITTED WHITE COLLAR CRIME, ELDER ABUSE, THEFT OF**
4 **PRINCIPAL-CLIENT-BENEFICIARY'S FUNDS; HARRASSED AND**
5 **ABUSED SENIOR CITIZEN FEMALE INVENTOR/PLAINTIFF;**
6 **BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF**
7 **JUSTICE;** MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL
8 OMISSIONS; COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION TO
9 THE PATENT RE-EXAMINER MATERIAL TO THE PROSECUTION OF THE '556 AND
10 '178 PATENTS; AND FAILED TO DISCLOSE INFORMATION TO THE DELAWARE
11 DISTRICT COURT IN THE JPMORGAN CASE AND FULTON BANK CASE MATERIAL
12 TO THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
13 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
14 U.S. 87 (1810); FRAUDULENT OMISSIONS)
15 1201 N Orange St #7114, Wilmington, DE 19801, Tel: (302) 478-4230

16 Incidental 80: **TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC,**
17 Incidental 81: **CHARLES J. KULAS,**
18 Incidental 82: **VICTORIA E. BRIEANT,**
19 Incidental 83: **JOHN W. CARPENTER,**
20 1900 Embarcadero Rd # 109, Palo Alto, CA 94303, Tel: (650) 842-0300;
21 VICTORIA E. BRIEANT,
22 4000 Ponce de Leon Boulevard, Suite 470, Coral Gables, FL 33146, Tel: 305.421.7200;
23 JOHN W. CARPENTER,
24 829 Baronne St, New Orleans, LA 70113-1102, Tel: (415) 577-0698
25 (BREACH OF SOLEMN OATH; **OBSTRUCTION OF JUSTICE;**
26 MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
27 COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO
28 CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME
29 COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87
30 (1810), TO THE FEDERAL CIRCUIT; FRAUDULENT OMISSIONS; **AIDED AND**
31 **ABETTED WHITE COLLAR CRIME BY GEORGE PAZUNIAK.)**

32 Incidental 84: **WILLIAM J. WEIDNER, JR.,**
33 (BREACH OF SOLEMN OATH; OBSTRUCTION OF JUSTICE;
34 MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
35 COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO
36 CASE, NAMELY, U.S. SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN
37 *FLETCHER V. PECK* 10 U.S. 87 (1810), TO THE FEDERAL CIRCUIT; FRAUDULENT
38 OMISSIONS; **AIDED AND ABETTED WHITE COLLAR CRIME BY SKADDEN**
39 **ARPS, DAN DEVITO AND GEORGE PAZUNIAK.)**
40 1011 Commercial Street, North East Salem, OR 97308- 0749, Tel: 503.581.1501

1 **Incidental 85: HOPKINS & CARLEY,**

2 **Incidental 86: JOHN V. PICONE III,**

3 **Incidental 87: JENNIFER S. COLEMAN,**

4 **Incidental 88: CHRISTOPHER HOHN,**

5 (BREACH OF SOLEMN OATH; TREASON; **OBSTRUCTION OF JUSTICE**;
6 MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
7 COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO
8 CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME
9 COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87
10 (1810), TO THE DISTRICT COURT IN EASTERN DISTRICT OF TEXAS; FRAUDULENT
11 OMISSIONS; **COMMITTED WHITE COLLAR CRIME; HARRASSED AND**
12 **ABUSED SENIOR CITIZEN FEMALE INVENTOR/PLAINTIFF**)

13 70 S 1st St, San Jose, CA 95113, Tel: (408) 286-9800

14 **Incidental 89: RATNER PRESTIA;**

15 **Incidental 90: REX A. DONNELLY,**

16 **Incidental 91: STEPHEN J.WEED,**

17 **Incidental 92: BENJAMIN A. LEACE,**

18 Nemours Building, 1007 Orange Street, Suite 205, Wilmington, DE 19899, Tel:
19 302.778.2500

20 **Incidental 93: KENNETH N. NIGON,**

21 1235 West Lakes Drive, Berwyn, PA 19312, Tel: 612.371.2130; 610. 407.0701;

22 (BREACH OF SOLEMN OATH; TREASON; **OBSTRUCTION OF JUSTICE**;
23 MADE AFFIRMATIVE MISREPRESENTATIONS AND MATERIAL OMISSIONS;
24 COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION MATERIAL TO
25 CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S. SUPREME
26 COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10 U.S. 87
27 (1810), TO THE USPTO AND PTAB AND DELAWARE DISTRICT COURT; FRAUDULENT
28 OMISSIONS; **AIDED AND ABETTED WHITE COLLAR CRIME COMMITTED
BY GEORGE PAZUNIAK.**)

1 **Incidental 94: J.C.PENNEY CORPORATION, INC. AND ITS ATTORNEY**

2 **Incidental 95: DIANE LETTELIER,**

3 (INFRINGEMENT; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH;
4 TREASON; WILLFUL MISREPRESENTATION, MADE AFFIRMATIVE
5 MISREPRESENTATIONS AND MATERIAL OMISSIONS; COMMITTED FRAUD AND
6 FAILED TO DISCLOSE INFORMATION TO THE DISTRICT COURT IN THE EASTERN
7 DISTRICT OF TEXAS, MARSHALL DIVISION, MATERIAL TO THE ADJUDICATION OF
8 THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.
9 SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10
10 U.S. 87 (1810); FRAUDULENT OMISSIONS; **OBSTRUCTION OF JUSTICE;**

1 **AIDED AND ABETTED IN WHITE COLLAR CRIME COMMITTED BY**
2 **HOPKINS CARLEY).**

3 6501 Legacy Dr, Plano, TX 75024, Tel: (972) 431-1000

4 Incidental 96: **U-HAUL INTERNATIONAL, INC**, Subsidiary of AMERCO,
5 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH)
6 2727 N Central Ave, Phoenix, AZ 85004, Tel: (602) 263-6811

7 Incidental 97: **AVIS RENT A CAR SYSTEM LLC**,

8 Incidental 98: **AVIS BUDGET GROUP**,

9 Incidental 99: **PAYLESS CAR RENTAL**,

10 (INFRINGERS; ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH)
11 6 Sylvan Way, Parsippany, NJ 07054, Tel: 973-496-3500

12 Incidental 100: **HERTZ GLOBAL HOLDINGS, INC.**

13 Incidental 101: **THE HERTZ CORPORATION**,

14 Incidental 102: **DOLLAR RENT A CAR**,

15 Incidental 103: **THRIFTY CAR RENTAL**,

16 (INFRINGERS; ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH)
17 8501 Williams Road, Estero, Florida 33928, Tel: (239) 301-7000

18 Incidental 104: **ACE RENT A CAR**,

19 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH)
20 4529 West 96th Street, Indianapolis, IN 46268, Tel: 1-317-248-5686

21 Incidental 105: **ENTERPRISE HOLDINGS**,

22 Incidental 106: **ENTERPRISE RENT-A-CAR**,

23 Incidental 107: **NATIONAL CAR RENTAL**,

24 Incidental 108: **ALAMO RENT A CAR**,

25 (INFRINGERS; ANTITRUST CO-CONSPIRATORS, BREACH OF SOLEMN OATH)
26 600 Corporate Park Drive, Clayton/St. Louis, Missouri 63105, Tel: (314) 512-5000

27 Incidental 109: **PRESIDIO BANK**,

28 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH)
29 One Montgomery Tower, San Francisco, CA 94111, Tel: 415.229.8400

30 Incidental 110: **HERITAGE BANK OF COMMERCE**,

31 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH)
32 150 S Almaden Blvd, San Jose, CA 95113, Tel: 408.947.6900

33 Incidental 111: **BRIDGE BANK**,

1 (INFRINGER; ANTITRUST CO-CONSPIRATOR, BREACH OF SOLEMN OATH)
2 55 S Almaden Blvd, San Jose, CA 95113, Tel: 408.423.8500

3 **Incidental 112: GRANT & EISENHOFER P.A.**
4 **(BREACH OF SOLEMN OATH; TREASON; OBSTRUCTION OF**
5 **JUSTICE; COMMITTED FRAUD AND FAILED TO DISCLOSE INFORMATION TO**
6 **THE DELAWARE DISTRICT COURT IN THE DELL and FEDEX CASES MATERIAL TO**
7 **THE CASE, NAMELY, PATENT PROSECUTION HISTORY ESTOPPEL AND U.S.**
8 **SUPREME COURT RULING BY CHIEF JUSTICE MARSHALL IN *FLETCHER V. PECK* 10**
9 **U.S. 87 (1810); FRAUDULENT OMISSIONS; **AIDED AND ABETTED IN THE****
10 **WHITE COLLAR CRIME AND MALPRACTICE COMMITTED BY**
11 **GEORGE PAZUNIAK;**)
12 123 Justison St, Wilmington, DE 19801, Tel: (302) 622-7000;

13 **GIVEN THE CURRENT FACT PATTERN, JUDGE ANDREWS HAD A DUTY TO**
14 **BOW OUT OF THE CASE AND FAILED TO DO SO FOR VESTED INTERESTS,**
15 **PERSONAL TO HIM.**

16 328. According to Congress, U.S. Supreme Court case law and Delaware's canons of judicial
17 ethics, a judge must bow out of hearing any case in which his or her impartiality might
18 reasonably be questioned. The Canons of Judicial Conduct say that judges must avoid all
19 impropriety and appearance of impropriety.

20 "The test for appearance of impropriety is whether the conduct
21 would create in reasonable minds a perception that the judge's
22 ability to carry out judicial responsibilities with integrity,
23 impartiality and competence is impaired."

24 **JUDICIAL IMMUNITY IS A MOOT ARGUMENT**
25 **(JUDGE ANDREWS DOES NOT HAVE JUDICIAL IMMUNITY)**

26 329. Judge Andrews has no judicial immunity for his criminal acts, aiding and abetting a
27 criminal RICO association, by sanctioning the corrupt organization's scheme to deprive Plaintiff
28 of her rights with the Court's color of law and authority, or for his administrative/ministerial
duties. When Judge Andrews has a duty to act, he does not have discretion — he is then not
performing a judicial act, he is performing a ministerial act.

1 **i) Judge Andrews Willfully Failed to Uphold the Constitution – the**
 2 **Law of the Land – which is Deemed Treason.**

3 330. Judge Andrews violated the law, failed in his duty to uphold the Constitution, refused to
 4 enforce U. S. Supreme Court Chief Justice Marshall's Ruling on 'First Impression'
 5 Constitutional '*Res Judicata*' on Government 'Grants' — the Law of the Land — and wantonly,
 6 willfully and knowingly failed to uphold 'Patent Prosecution History Estoppel' in all of
 7 Plaintiff's patent cases, and denied Plaintiff Due Process and Equal Protection of the Law in
 8 violation of the 14th Amendment and violated Plaintiff's right to free speech of the 1st
 9 Amendment and her property rights of the 5th Amendment, by collusively blocking access to
 10 justice and refusing to enforce Chief Justice Marshall's Ruling. Judge Andrews aided and abetted
 11 JPMorgan, SAP, IBM, Fulton Bank and Bank Defendants in affording them a monopoly over the
 12 market, which is in violation of Antitrust laws in allowing them to control the market.
 13 sanctioning the corrupt organization's scheme to deprive Plaintiff of her rights with the Court's
 14 color of law and authority. Defendants' lawyers failed in their duty to report Judge Andrews of
 15 his treasonous conduct and therefore are guilty of misprision of treason. Judge Andrews has no
 16 judicial immunity for damages sustained by Plaintiff who has been harmed by Judge Andrews'
 17 connivance with, aiding and abetting, IBM's criminal activity, Defendants' Antitrust violation
 18 and civil RICO.
 19
 20
 21
 22

23 **ii) Judge Andrews is a Trespasser of the Law and is Engaged in**
 24 **Treason:**

25 331. Judge Andrews failed to uphold the Law of the Land and all his Orders and Judgments
 26 are void, and form no bar to the recoveries sought by Plaintiff, even prior to a reversal in
 27 opposition to them. The Seventh Circuit Court of Appeals held that the Circuit Court of Cook
 28

1 County is a criminal enterprise. *U.S. v. Murphy*, 768 F.2d 1518, 1531 (7th Cir. 1985), affirmed
 2 by the U. S. Supreme Court, following "a labyrinthine federal investigation of judicial corruption
 3 in Chicago." U.S. Supreme Court stated that if a court is "without authority, its judgments and
 4 orders are regarded as nullities. They are not voidable, but simply void; and form no bar to a
 5 recovery sought, even prior to a reversal in opposition to them. They constitute no justification;
 6 and all persons concerned in executing such judgments or sentences, are considered, in law, as
 7 trespassers." *Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828). Judge Andrews acted
 8 when he did not have jurisdiction to act, and also enforced a void order in the *JPMorgan* case
 9 12-282-SLR/RGA (D.Del.) (an order issued by Judge Sue Robinson without jurisdiction), he
 10 became a trespasser of the law, and is engaged in treason because he knew or should have known
 11 the Law of the Land and failed to enforce it for reasons best known to him. When Judge
 12 Andrews acted as a trespasser of the law, and did not follow the law, Judge Andrews lost
 13 subject-matter jurisdiction and Judge Andrews' orders are void, of no legal force or effect. The
 14 Court in *Yates v. Village of Hoffman Estates*, Illinois, 209 F.Supp. 757 (N.D. Ill. 1962) held that
 15 "not every action by a judge is in exercise of his judicial function. ... it is not a judicial function
 16 for a judge to commit an intentional [constitutional] tort even though the tort occurs in the
 17 courthouse." Judge Andrews committed many intentional [constitutional] [sic.] torts against
 18 Plaintiff.
 19

20 **iii) Judge Andrews is In Violation of His Oath of Office to Support the**
Constitution of the United States against All Enemies, Foreign or
Domestic and to Bear True Faith and Allegiance to the Same

21
 22 332. U.S. Supreme Court has stated that "No state legislator or executive or judicial officer
 23 can war against the Constitution without violating his undertaking to support it." *Cooper v.*
 24
 25
 26
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1 Aaron, 358 U.S. 1, 78 S. Ct. 1401 (1958). Any judge who does not comply with his oath to the
 2 Constitution of the United States wars against that Constitution **and engages in acts in violation**
 3 **of the Supreme Law of the Land**. If a judge does not fully comply with the Constitution, then
 4 his orders are void, *In re Sawyer*, 124 U.S. 200 (1888), s/he is without jurisdiction, and s/he has
 5 engaged in an act or acts of treason.

7 333. When a judge acts where s/he does not have jurisdiction to act, the judge is engaged in
 8 an act or acts of treason. *U.S. v. Will*, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L.Ed.2d 392, 406
 9 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

11 334. Any judge (Judge Stark, Third Circuit Judges, CAFC Panel Judges and other judges) **or**
 12 **attorney** (George Pazuniak, Sean O'Kelly, Ryan Ernst, Mr. Bielli, Defendants' lawyers, Doug
 13 Nemec, Ed Tulin, Dan DeVito, Greg Lanier, Lori Gordon, Michael Lee, Kevin Culligan, Mr.
 14 Moore, and others) who does not report the above judges (Judge Andrews, Judge Robinson,
 15 CAFC Panel Judges, PTAB Judges McNamara and Stephen Siu) for treason as required by law
 16 may themselves be guilty of misprision of treason, 18 U.S.C. Section 2382.

18 **IV) JUDGE ANDREWS WILLFULLY DEPRIVED PLAINTIFF OF HER RIGHTS**
 19 **UNDER COLOR OF LAW**

20 335. Section 242 of Title 18 makes it a crime for a person acting under color of any law to
 21 willfully deprive a person of a right or privilege protected by the Constitution or laws of the
 22 United States.

24 "For the purpose of Section 242, acts under "color of law" include
 25 acts not only done by federal, state, or local officials within the their
 26 lawful authority, but also acts done beyond the bounds of that official's
 27 lawful authority, if the acts are done while the official is purporting to or
 28 pretending to act in the performance of his/her official duties. Persons
 acting under color of law within the meaning of this statute include
 ...judges... who are acting as public officials. It is not necessary that the

1 crime be motivated by animus toward the race, color, religion, sex,
2 handicap, familial status or national origin" of the victim/Plaintiff.

3 **v) JUDGE ANDREWS IS A CO-CONSPIRATOR IN THE ANTITRUST CONSPIRACY**

4 336. Judge Andrews has shown a pattern of behaving or ruling in a manner that is preventing
5 or hindering Plaintiff from receiving full, fair, impartial hearings or the full, fair, impartial
6 administration of justice. Judge Andrews engaged in prosecutorial misconduct and did not
7 FAITHFULLY and CONSISTENTLY adhere to his oath of office nor did he aggressively
8 pursue justice for ALL. His conduct amounts to being a co-conspirator or having a vested
9 interest in the conspiracy.

10 **A) COMPOUNDING TREASON**

11 337. Judge Andrews suppressed and oppressed Plaintiff and violated the laws of the United
12 States. Judge Andrews engaged in a conspiracy [in whole or in part] with George Pazuniak in the
13 *Fulton Bank Case 14-490-RGA* (D. Del.), in which Judge Andrews knew or should have known
14 that Plaintiff's U.S. Patent No. 8,271,339 ('339 patent) was protected by 'Patent Prosecution
15 History Estoppel' respecting the patent 'Grant' in front of him and failed to enforce the
16 Constitution and Justice Marshall's Ruling on 'Grants' in violation of Plaintiff's rights to be
17 protected by it.

18 **B) MISPRISION OF TREASON**

19 "Very few practicing lawyers are willing or able to expose corrupt
20 Judges publicly, for they are at great risk when they must later appear
21 again before the exposed misbehaving Judge. Exposure of rotten judicial
22 apples offends and embarrasses the entire judiciary. When a lawyer, in
23 diligent pursuit of his client's interests, dares stand up to Bad Judges, the
24 "system" locks arms, and seeks to punish or suppress the iconoclastic
25 lawyer,"

26 in this case, Dr. Lakshmi Arunachalam.

1 "The system's resistance to admitting the existence of a bad judge
 2 can be astounding. Yet someone must stand up to challenge this cancer
 3 within the Judiciary. Failing to do so is a misprision of treason."

4 **vi) All of Judge Andrews' [and All Other Judges Similarly
 5 Situated] Orders are Void**

6 338. U.S. Supreme Court, in *Scheuer v. Rhodes*, 416 U.S. 232, 94 S.Ct. 1683, 1687 (1974)
 7 stated that "when a state officer acts under a state law in a manner violative of the Federal
 8 Constitution, he "comes into conflict with the superior authority of that Constitution, and he is in
 9 that case stripped of his official or representative character and is subjected in his person to the
 10 consequences of his individual conduct. The State has no power to impart to him any immunity
 11 from responsibility to the supreme authority of the United States." [Emphasis supplied in
 12 original]. By law, a judge is a state officer. The judge then acts not as a judge, but as a private
 13 individual (in his person).

14
 15 **VII**
 16 **JUDGE ANDREWS IS GUILTY OF**
 17 **NOT PROVIDING HONEST JUDICIAL SERVICES**

18 339. As a Federal District Court Judge, Judge Andrews has a fiduciary relationship with the
 19 United States and its citizens who have a reasonable expectation of honest judicial services,
 20 disinterested decision-making when performing his official duties, full disclosure of the potential
 21 motivation behind, and material information relevant to, his official acts, including full
 22 disclosure of conflicts of interest, which would provide the citizens of the United States with the
 23 information necessary to evaluate his motivations for official acts.

24
 25 340. From November 2011 through April 2017, Judge Andrews engaged in a scheme and
 26 artifice to defraud and deprive the United States and its citizens, particularly Lakshmi-
 27 Arunachalam, Ph.D., of her intangible right to his honest services. Judge Andrews is alleged to

1 have accomplished this by holding direct stock in Fedex, buying stock in JPMorgan during the
2 pendency of the case and concealing it from the citizens of the United States, particularly Dr.
3 Lakshmi Arunachalam. After buying stock in the litigants Fedex and JPMorgan in Plaintiff's
4 patent cases, Judge Andrews continued to preside as a District Court Judge over pending and
5 newly filed cases involving JPMorgan, Fedex, Fulton Bank and Bank Defendants. Judge
6 Andrews lacked subject matter jurisdiction, as he failed to enforce U.S. Supreme Court Justice
7 Marshall's ruling on Constitutional *Res Judicata* on Government 'Grants' and failed to abide by
8 'Patent Prosecution History Estoppel' in all of Plaintiff's Patent cases and collusively engaged in
9 a conspiracy [in whole or in part] with George Pazuniak in dismissing the Fulton Bank case 14-
10 490-RGA (D.Del.) based on an alleged collateral estoppel which did not apply because of U.S.
11 Supreme Court Justice Marshall's ruling on Constitutional *Res Judicata* on Government 'Grants'
12 and 'Patent Prosecution History Estoppel.'

13 341. Defendant Judge Andrews failed to disclose to the public, his fellow District Court
14 Judges, the parties of pending civil cases, and other government officials his financial
15 relationship with Fedex and JPMorgan and subject matter conflict of interest [from the Fulton
16 Bank case.] in cases pending before the Delaware District Court. He concealed the nature of his
17 role by not disclosing his self-enrichment and conflicts of interest while serving as a District
18 Court Judge.

19 342. The citizens of the United States, particularly, Dr. Lakshmi Arunachalam, suffer when
20 elected officials violate the public trust. When Judge Andrews is charged with the responsibility
21 of doing justice is alleged to have violated that trust, this Court must act swiftly to investigate
22 and have Judge Andrews prosecuted and to restore confidence in the judicial system. None of the
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1 Courts have demonstrated a commitment to investigating and prosecuting allegations of
2 corruption in the Delaware District Court.

3 343. Judge Andrews must be charged with one count of obstructing justice, in violation of
4 Title 18, Section 1512(c)(2) under this fact pattern.

5 344. At the heart of our democracy is an independent judiciary, free from outside influence or
6 corruption. When that is compromised, this Court must take steps to restore the community's
7 faith in the judicial system and have Judge Andrews prosecuted as such a cleansing step, with an
8 investigation by the FBI and the staff of the office of the United States Attorney to uphold our
9 system of justice with tenacity. This Court must provide this service to our court system and our
10 citizens that depend upon it.

11 345. Public corruption in any form cannot be tolerated in our society. Such crimes strike at the
12 core of America's basic principles of democracy. Elected and appointed officials must act
13 impartially, without influence or bias. Their inability or failure to do so jeopardizes the
14 confidence placed in them by the public they are entrusted to serve. This Court must have the
15 FBI aggressively investigate public corruption with regard to the Delaware District Court, Judge
16 Andrews, Judge Stark and Judge Robinson. Such crimes undermine the strength of our
17 democracy and, left unchecked, threaten our government and our way of life.

18 346. Judge Andrews engaged in Conspiracy to defraud and oppress the public and Plaintiff of
19 Honest Judicial Services by willful nonfeasance, misfeasance, and malfeasance in office, under
20 color of law and authority [in contempt] of U.S. Supreme Court Justice Marshall's Ruling on
21 Constitutional *Res Judicata* on Government 'Grants' and 'Patent Prosecution History Estoppel,'
22 to cover-up corrupt misconduct - in breach of his Oaths of Office; and, his duty and public
23 charge.

- 1 A. Judge Andrews' ruling in the *Fulton Bank* case on Plaintiff's '339 patent evidences
2 total abuse of power, abuse of discretion, bias and invidious discrimination against and
3 harassment of Plaintiff.
- 4 B. Courts must examine changed factual circumstances. Judge Andrews failed to do so
5 with regard to the '339 Patent. Judge Andrews Invoked Neither Equity nor the Law.
- 6 C. Judge Andrews neither examined the facts nor did he exercise the application of the
7 law to the facts. His ruling in the *Fulton Bank* case on the '339 patent was illogical,
8 implausible, and is without support in inferences that may be drawn from the facts
9 in the record.

10 347. Judge Andrews failed to enforce Justice Marshall's ruling on 'Grants' and U.S.
11 Supreme Court's Rulings on Patent Prosecution History Estoppel.

12 D. Judge Andrews' Ruling in the *Fulton Bank* case on the '339 Patent is contrary to
13 U.S. Supreme Court Rulings and must be vacated.

14 348. Judge Andrews failed to enforce Justice Marshall's ruling on 'Grants' and U.S.
15 Supreme Court's Rulings on Patent Prosecution History Estoppel.

16 349. CAFC Judge O'Malley cites several law review articles for the proposition that
17 "Claim construction disputes are very fact specific—.... Claims are drafted,
18 redrafted, and amended in ways intended to reflect and capture particular
19 inventions in a particular field, to avoid very specific prior art, and
20 to respond to the rejections of the unique patent examiner involved in the
21 application process. ...we know how to delve into the "very fact specific"
22 record, to trace the prosecution history of a claim that was "drafted, redrafted,
23 and amended," to understand the "particular inventions" and the
24 distinguishing features from the "very specific prior art."

25 350. In Plaintiff's parent 6,212,556 ('556) patent prosecution history (Exhibit 14), the
26 inventor, Plaintiff distinguished her invention over the cited art, U.S. Patent No. 5,828,666
27 ("Focsaneanu"). Judge Andrews willfully colluded with JPMorgan, Wells Fargo Bank, Citi
28 Bank and SAP in their willful omissions that prosecution history estoppel already has
29 established that the term "value-added network switch" is not indefinite and relates to
30

1 application layer network switches, not with a network layer switch; and that prior art is not only
 2 cited, but also discussed in detail in the specification of the ‘556 patent. The claim language,
 3 disclosure in the written description, and the meaning to persons of ordinary skill are fact
 4 specific. Both Judge Robinson and Judge Andrews engaged in racketeering with JPMorgan,
 5 IBM, the IBM Eclipse Foundation, in their willful actions and omissions with regard to the claim
 6 terms “value-added network switch” and “service network.” They did not construe these terms in
 7 view of the prosecution history’s treatment of the prior art and because prior art sheds light on
 8 the meaning of a term as cited by the patentee.
 9

10 351. Judge Andrews’ willful abuse of discretion and ruling without investigating the
 11 facts and dismissing a case based on collateral estoppel that did not apply to the ‘339 patent is
 12 collusion with Fulton Bank, a customer of IBM, and with JPMorgan. Defendant Judge Andrews’
 13 willful acts and omissions and refusal to uphold the Constitution have injured Plaintiff
 14 financially and also her health.

15 **E. This pattern of racketeering by Judge Andrews and Judge Robinson with IBM has**
 16 **gone on several times during the course of the last ten years. Judge Andrews willfully**
 17 **dismissed the Dell and Fedex cases, without being a trier of facts.**

18 352. Dell and Fedex are both customers of IBM and Microsoft, who are members of
 19 the IBM Eclipse Foundation. This was particularly egregious because Judge Andrews held direct
 20 stock in Fedex when he dismissed Plaintiff’s case against Fedex and Dell, as seen from his own
 21 annual financial disclosure statements and his Testimony at his Senate Confirmation Hearing.
 22 This Court must take judicial notice of all his Orders and Memorandum of Opinion in the
 23 JPMorgan case 1:12-cv-282, Citizens’ Financial Group case 1:12-cv-355, the Fulton Bank case,
 24 the Dell and Fedex cases and in Plaintiff’s case 1:15-cv-259 against Pazuniak *et al*, and all of
 25
 26
 27
 28

1 Plaintiff's cases, incorporated by reference herein, his financial disclosure statements, his
2 Senate Confirmation Hearing, SEC reports and the fact that he worked at Mayer Brown by which
3 Judge Andrews was conflicted from presiding over those cases.
4

5 **F. Andrews' actions and omissions have been egregious and erratic and evidence
6 collusion with IBM, JPMorgan, Wells Fargo, Citibank and Fulton Bank, who are all
IBM customers and members of the IBM Eclipse Foundation**

7 **1. Andrews' Own Admissions of Owning Direct Stock in JPMorgan:**

8 Andrews admitted he bought direct stock in JPMorgan during the pendency of the
9 case, in addition to him admitting he had other financial holdings in the litigants via
10 mutual funds.
11

12 **2. Andrews' Refusal to Recuse Multiple Times Despite Appearance of Bias:**

13 Andrews refused to recuse numerous times on multiple Plaintiff's cases and
14 continues to preside over these cases, where he is biased in favor of the litigants, such as
15 JPMorgan, CitiBank, Wells Fargo and SAP, as well as in Plaintiff's malpractice case
16 against Pazuniak *et al.*
17

18 **3. Andrews dismissed Plaintiff's 60(b), 60(d) motions for fraud on the court in the**
19 **JPMorgan case and in the Citizens Financial Group, Wells Fargo, CitiBank, Kronos cases**
20 **for no valid reason, but for a self-serving reason of obstruction of justice of his own**
21 **wrongdoings.**
22

23 **G. Andrews manipulated the Court Hearing transcripts of the Hearing held in Delaware in**
24 **September 2014 in the Citizens' Financial Group, Wells Fargo, CitiBank, Kronos cases.**

25 353. Plaintiff clearly stated in the Court that she was delivering the 60 (b), 60(d)(3)
26 motion at the Court, which set the tone of the Court that day at the Hearing and after which the
27 Court went into pin drop silence. The Court transcripts have removed the statement made by
28

1 Plaintiff that the Motion papers being delivered in the Court Hearing and which Andrews asked
 2 Plaintiff to serve on the Defendants while the Court Hearing was in session, involved a 60(b)
 3 60(d)(3) Motion for fraud on the court.
 4

5 **H. Andrews' erratic and disparate treatment of Plaintiff are the hallmarks of invidious
 6 discrimination.**

7 354. Andrews infringed Plaintiff's liberty-based substantive due process and has
 8 violated the laws of the United States. In such cases, the U.S. Supreme Court recognizes a non-
 9 textual "liberty" which then limits or voids laws limiting that liberty. Also, Andrews' untimely
 10 and erratic admission almost 3 years after the case has been going on of buying direct stock in
 11 JPMorgan was shocking.
 12

13 355. Plaintiff's need to attend to her health to avert a medical emergency is an
 14 "inalienable right," a fundamental and compelling interest, guaranteed by the Bill of Rights.
 15 Andrews abridged this right, causing medical and other injury to Plaintiff. Andrews threatened
 16 to hurt Plaintiff's case against Pazuniak, when *pro se* Plaintiff, a senior citizen with
 17 disabilities from illness, genuinely trying to meet court rules and deadlines, informed
 18 the Court that she has a need for a medical leave of absence with three letters, two
 19 from her Doctors and one from her church friend who is a Stanford doctor. Andrews'
 20 threats and egregious actions toward Plaintiff did not advance a legitimate government interest.
 21 Where fundamental rights are infringed, strict scrutiny is the test and the challenged law is
 22 generally struck down. *Shapiro v. Thompson*, 394 U.S. 618 (1969); *Shaw v. Hunt*, 517 U.S. 899,
 23 908 (1996); *Vacco v. Quill*, 521 U.S. 793, 799 (1997). Andrews' erratic and disparate treatment
 24 of Plaintiff are the hallmarks of invidious discrimination. *Romer v. Evans*, 517 U.S. 620, 631
 25 (1996). Andrews infringed Plaintiff's liberty-based substantive due process. In such cases, the
 26 27
 28

1 U.S. Supreme Court recognizes a non-textual "liberty" which then limits or voids laws limiting
 2 that liberty. *Roe v. Wade*, 410 U.S. 113 (1973). Andrews' medical interference and
 3 harassment of Plaintiff when she notified him of a medical need breached multiple
 4 laws, depriving Plaintiff of the protections of the Bill of Rights, fourteenth
 5 Amendment, 35 U.S.C. §282 of the Patent Act, Civil Rights Act, American
 6 Disabilities Act, FRCP Rule 60(b), 60(d).

7

8 I. **Andrews Bullied and Harassed Plaintiff, Refused to grant her extension of time to file**
9 amended complaint against Pazuniak et al for medical reasons and grant her
10 unrestricted medical leave of absence, as the other courts have.

11 356. When all the other Courts in the Federal Circuit in the SAP and Fremont Bank
 12 case appeals and the USPTO re-examination case appeals granted Plaintiff her medical leave of
 13 absence and enlarged the time to file her briefs, Andrews has been biased in favor of Pazuniak
 14 and refused to give Plaintiff her much needed extension of time for medical leave of absence.
 15 Instead, he let Defendants Pazuniak *et al* lie to the Court about Plaintiff Plaintiff's physician, a
 16 very dedicated Board-certified Endocrinologist affiliated with Stanford Hospital, Sequoia
 17 Hospital and the VA Hospital, and did not sanction them for lying. Instead Judge Andrews
 18 bullied Plaintiff and had her write several briefs and he has still not given her the unrestricted
 19 leave of absence she so desperately needed without requiring her to file her amended complaint
 20 by May 18, 2016.

21

22

23 J. **Andrews' refusal five times to let Plaintiff, the real party-in-interest substitute in as**
24 Plaintiff in the JPMorgan case shows collusion, racketeering with JPMorgan and IBM
and the IBM Eclipse Foundation and denied her the right to appeal

25 357. In all the other Courts, every single Judge has recognized that Plaintiff is the
 26 inventor and assignee of her patents and is the real party-in-interest and allowed her to be
 27 substituted in as Plaintiff. Andrews refused to recognize Plaintiff as sole owner and real party-in-

1 interest in the JPMorgan case. Plaintiff filed at least 5 motions asking him to be
 2 substituted in as Plaintiff, but he has not allowed this to date in the JPMorgan case. Andrews has
 3 self-servingly and willfully done this because he is afraid that other evidences of his atrocities
 4 and racketeering would be exposed. He has only evidenced that he wishes Plaintiff gone as
 5 quickly as possible.

7 **K. Andrews willfully committed obstruction of justice when he willfully dismissed the**
 8 **legitimate malpractice causes of action against Pazuniak *et al* filed by Plaintiff, the real**
 9 **party-in-interest. In his Order, he stated that only her company Pi-Net can file this and**
not Plaintiff, even though she is the real party-in-interest and principal-client-
 10 **beneficiary, as per the Retainer Agreement prepared by Pazuniak.**

11 358. This is because he does not want to go over claim construction issues arising from
 12 the JPMorgan case and George Pazuniak committing malpractice by putting forth wrong claim
 13 constructions against Plaintiff's express instructions not to do so. **This is only further evidence**
 14 **of racketeering in collusion with JPMorgan, IBM and the IBM Eclipse Foundation.** He
 15 failed to address the fact that Judge Robinson's claim construction ruling is in legal error and not
 16 based on law nor the facts of the case, in which JPMorgan willfully committed obstruction of
 17 justice to not let Judge Robinson see the facts of the case. JPMorgan did not provide "clear and
 18 convincing evidence" as required by Sec. 282 of the Patent Act that any of the claim terms were
 19 indefinite. Key claim terms have been defined with great clarity both in the specification and in
 20 the prosecution history in view of the prior art cited. For example, "value-added network
 21 switch." Prosecution history estoppel prevents Andrews or Judge Robinson or JPMorgan or
 22 Pazuniak *et al* from stating that "value-added network switch" is indefinite or that a "value-
 23 added network switch" is a "web page...," as Pazuniak advanced to the USPTO, committing
 24 malpractice against Plaintiff's instructions based on sound technical and legal grounds.
 25
 26
 27

1 359. Andrews willfully overlooked the atrocities of Pazuniak and dismissed the
 2 legitimate malpractice causes of action filed by Plaintiff, without trying the facts of the case.
 3 Andrews willfully colluded with JPMorgan in wanting to make the JPMorgan case and any other
 4 cases where it involves claim construction, and Plaintiff to go away. Andrews is willfully
 5 engaged in racketeering with JPMorgan and all the Defendants who are involved in the IBM
 6 Eclipse Foundation and the USPTO judges, Brian McNamara and Stephen Siu (a former IBM
 7 employee and former Microsoft employee), both of whom own direct stock in Microsoft and are
 8 conflicted to preside over Plaintiff's Microsoft and SAP re-examination cases, thereby voiding
 9 all rulings by these Judges in the USPTO and PTAB.

12 **L. Andrews' Collusion with Judge Robinson and Racketeering with IBM and IBM Eclipse
 13 Foundation**

14 360. Judge Robinson along with CAFC's Jan Horbaly, changed the definition of
 15 "financial interest" in 2001, contrary to IRS and public accounting standard definitions of the
 16 term, at the same time as the Executive Branch of the Government participated in the founding
 17 of the IBM Eclipse Foundation.

19 **M. Andrews' actions dramatically prejudiced Plaintiff's lawsuit against JPMorgan, Fulton
 20 Bank, Fremont Bank and Pazuniak *et al.* He and Judge Robinson engaged in
 21 racketeering with JPMorgan and IBM in allowing JPMorgan's tampering with its
 22 expert witness.**

23 361. The law is clear:

24 "Whoever corruptly--. . . (2) otherwise obstructs, influences, or impedes
 25 any official proceeding, or attempts to do so, shall be fined under this title
 26 or imprisoned not more than 20 years, or both." 18 U.S.C. § 1512(c).

27 362. JPMorgan had its expert witness lie that the patents do not disclose POSvc
 28 application nor VAN switch. Applications have existed in the Back Office of Banks and
 enterprises for eons of years. It has never been the goal of the patents to teach applications that

1 have existed in Banks for eons of years. VAN switch has been clearly taught in the specification
 2 and in the prosecution history. Andrews willfully obstructed justice by colluding with JPMorgan
 3 in not allowing Plaintiff a chance to demonstrate that the Court ruled against Plaintiff despite the
 4 fact that JPMorgan did not provide "clear and convincing evidence" as required by Sec. 282 of
 5 the Patent Act.

7 **A. GOVERNMENT'S CULPABILITY: UNLAWFUL AND UNFAIR ACTS–**
 8 **USPTO/PTAB IN BREACH OF CONTRACT WITH INVENTOR/PLAINTIFF, RE-**
 EXAMINATIONS OF GRANTED PATENTS TRIGGERED BY PETITIONS BY
 DEFENDANTS FOR RE-EXAMINATIONS: (If one thinks the Govt was not aware of
 9 the infringement when becoming partners with Microsoft; just see the movie Snowden
 10 and Antitrust.)

11 363. The USPTO is in breach of contract with the inventor/Plaintiff Dr. Arunachalam
 12 by violating U.S. Supreme Court Chief Justice Marshall's '*First Impression*' Constitutional *Res*
 13 *Judicata* ruling in *Fletcher v. Peck*, 10 U.S. 87 (1810) prohibiting the quashing of Government
 14 Patent Contract Grants once issued, by the most absolute power, in re-examining many of Dr.
 15 Lakshmi Arunachalam's Granted Patents; and failing to uphold Patent Prosecution Histoery
 16 Estoppel, as per Federal Circuit's ("CAFC") ruling in *Aqua Products v. Matal*, 15-1177, October
 17 2017; and denying Dr. Arunachalam due process in not providing her a neutral judge with no
 18 financial holdings in the opposite party, namely Microsoft.

21 **B. The RICO Operative Plan: Breach of Public Trust and Fraud on the Court:**

22 The USPTO/PTAB engaged in complete lawlessness in PTAB Judge McNamara denying Dr.
 23 Arunachalam due process and electronic filing privilege simply because she filed a motion for
 him to recuse because he had direct stock in Microsoft, the Third Party Requester in Dr.
 24 Arunachalam's patent re-exams. The USPTO and PTAB failed to enforce Patent Prosecution
 25 History Estoppel upheld by the U.S. Supreme Court and CAFC and U.S. Supreme Court Chief
 26
 27

1 Justice Marshall's '*First Impression*' Constitutional *Res Judicata* ruling in *Fletcher v. Peck*, 10
 2 U.S. 87 (1810) prohibiting the quashing of Government Patent Contract Grants once issued, by
 3 the most absolute power; induced the public to come in and give the Patent Office the inventions
 4 of inventors like Dr. Arunachalam and to file patent applications; awarded a Patent Contract
 5 Grant; then re-examined on behalf of Defendants/infringers a Granted Patent in violation of U.S.
 6 Supreme Court Chief Justice Marshall's '*First Impression*' Constitutional *Res Judicata* ruling in
 7 *Fletcher v. Peck*, 10 U.S. 87 (1810); and invalidated the Granted Patent(s); and let the infringers
 8 steal the inventions and the Granted Patents of inventors without compensation; all of which
 9 constitute intentional deception, deceiving the public, breach of public trust and fraud on the
 10 court. This is the RICO operative plan. The USPTO, PTAB and the District and Appellate Courts
 11 have made it expensive, hazardous, and burdensome for inventors to get the
 12 Defendants/infringers to pay up the royalties for use of the inventions, defeating the purpose of
 13 granting a patent and the mission of the USPTO as envisioned by our founding fathers of the
 14 nation.

18 C. **Agency Operating as a Criminal Enterprise:** USPTO is a closed system
 19 Revolving-Door enterprise inducing contract fraud for adjudicative **findings**
 20 **Government Contract Fraud Inducement and Adjudicative Corruption of the**
 21 **USPTO Designed To Antitrust Domestic and International Internet-of-Things**
 22 **(IoT) By the USPTO, Compromised Courts, and colorful Legislative Enactment**
 23 **Coloring promoting The Infringement of [T]he Single (most important) 1995**
 24 **Patent by Copyright Conversion In Breach of Solemn Oaths and Public Trust**
 25 **Nonfeasance, Misfeasance, and Malfeasance In Corrupt Association with**
Corporate Defendants and Apple App Store and Google Play Web application
developers Converting the Agency into a Continuing RICO Enterprise of
Repetitious Wrongful Mandated Activity Concealing Crimes too Small to be
Recognized as Crime Inconsistent with Legitimate Intent.

26 D. **False Advertising:** To induce Inventors to forfeit inventions to the USPTO, the
 27 Agency systematically propounds the 'Organized Dissemination of [Misleading.] Information'
 28

1 regarding the ‘Object’ of its ‘Public Contract-Patent Grant [Offer — Contingent upon Agency
 2 Certification of the Invention’s ‘Construction & Terms.’]’ guaranteeing; a) that, the Invention
 3 [Acceptance Consideration.] will be used to ‘Promote and Benefit Commerce, the Economy, and
 4 Public Use.’; b) that, the ‘Patented’ Invention’s ‘Agency Certified Construction and Terms’ will
 5 be protected by ‘Judicial Notice’ of the attaching ‘Patent Prosecution History Estoppel’ upon
 6 any challenge; c) that, the Inventor will possess ‘Unfettered Control and Use’ of the patented
 7 invention for a ‘Time Certain’; and d) that, by ‘Government Grant,’ the Inventor will have ‘The
 8 Awarded Right’ to collect royalties for any infringements of the patent’s claims, construction and
 9 terms during the time certain in which the Inventor has control of the patent. Thereby ‘Creating
 10 Satisfied Victims for a Period of Time.’

13 364. By ‘Voluntary Victim Action in ‘Accepting’ the Government’s ‘Offer,’ the
 14 Victim in fact ‘Assisted by Constructive Admission’ that the ‘Revolving-Door Agency’
 15 contracted in ‘Good Faith’; thereby, assisting in concealing the Agency’s silence [as fraud.]
 16 regarding the USPTO’s long practiced [Pre AIA Enactment ‘Coloring’.] venue to the Appeals
 17 Division to ‘Reexamine (Beneficial) Granted Patents’ [Treasonably.] for rescinding patentability
 18 [Contrary to U. S. Supreme Court Chief Justice Marshall’s ‘First Impression’ Mandated
 19 Prohibition, in *Fletcher v. Peck*, 10 U.S. 87 (1810).]. For reasons, of past crimes detectable and
 20 provable only through Audit Procedures.

23 E. **Eclipse Foundation (fraudulently operating as a non-profit) coloring in**
 24 **furtherance of antitrust:** The nexus significance of this single infringement; however,
 25 manifests itself by the USPTO ‘Converting the Infringement into a Copyright for IBM and the
 26 Eclipse Foundation (fraudulently operating as a non-profit) coloring in furtherance of antitrust,
 27 whose Members, two of whom are Apple and Samsung, and IBM’s distribution of the

1 infringement worldwide as freeware subject to licensing as a copyright licensing to capture the
 2 global market to monopolize and minimize domestic and international competition;
 3 discouraging, investigation by making the crime appear overwhelming in size and complexity.
 4

5 **F. Legislative Coloring of Antitrust through the unconstitutional AIA:** For over
 6 200 years, the Patent Law Profession has produced boxcars of litigations, lawyers, federal
 7 judges, and legislative officials that have changed the patent law environment to the point of
 8 rendering the administration of it becoming a ‘Closed System’ requiring specialization. Since
 9 the 2012 passing of the America Invents Act [Authorizing the ‘Re-examination of Existing
 10 Patent Grants [Protected by ‘Patent Prosecution History Estoppel’] [Already being practiced pre-
 11 AIA by the PTO Appeals Board in conjunction with the Federal Circuit.], the administration has
 12 reduced the inducing ‘Public Contract and Duty’ to protect issued grants; into, a legal fraud
 13 being perpetrated on the public inventor (to obtain one’s invention); under, false pretense that an
 14 awarded Patent Grant is protected. It appears the entire Patent Administration and Federal
 15 Circuit have been ignorant of the very first Contract Law case heard by the Supreme Court;
 16 establishing, the *res judicata* Law of the Land prohibiting the quashing of government grants,
 17 once issued by the government even by the highest authority. *Where Chief Justice Marshall’s*
 18 *mandated prohibition has not been overturned to date; how, then can the USPTO, the Federal*
 19 *Circuit, or Legislature pass or make laws to the contrary — without being in breach of*
 20 *individual and collective solemn oaths to uphold the Law of the Land?*

21 **G. Tortuous Acts against Plaintiff:** In 1995 [Prior to enactment of the America
 22 Invents Act (*AIA*).], the USPTO breached its social contract with VICTIM/Plaintiff/Inventor.
 23 The USPTO, *a) allowed*, IBM to infringe VICTIM/ Plaintiff’s protected patent [In corrupt
 24 association with other Web application developers in restraint of trade.] to avoid paying royalties
 25

1 to VICTIM/ Plaintiff. The USPTO, *b) allowed*, The Eclipse Foundation (*The RICO Enterprise*)
 2 to (*overtly*) convert the infringed patent (*immediately*) into a (*colorful*) trademark and copyright
 3 for international distribution as '*Freeware*' [To capture the 'Global Market'.]; *and c) in*
 4 *furtherance*, collusively moved to have the (*infringed*) patent '*Reexamined Administratively*' 13
 5 times [In cohort with the USPTO Appeals Board.] by representation on behalf of an initial
 6 infringing Apple's App Store Web application developer, Microsoft (*in breach of trust,*
 7 *solemn oath, and in conflict of interest.*).

9 365. In 1995, VICTIM/Plaintiff was induced into '*Accepting*' the 'Standing Social
 10 Contract' proffered by the USPTO; contingent, upon USPTO '*Certification of the Invention's*
 11 *Construction and Terms*'. *In consideration*, of VICTIM/Plaintiff forfeiting ownership of the
 12 invention to the USPTO for 'Public Use and Benefit', the contract guaranteed that;
 13
 14 VICTIM/Plaintiff, a.) would have '*Unfettered Use and Control*' of the Invention for a 'Time
 15 Certain'; *with, b)* patented 'Prosecution History Estoppel Protection Right' against any
 16 challenges to the (*certified*) construction and terms of the invention; and, c) the granted right to
 17 bring an action for '*Infringements during the Time Certain; whereupon*', after the time-elapsed,
 18 the USPTO would own the invention. In (*good-faith*) reliance with the terms of the social
 19 contract, VICTIM/Plaintiff transferred ownership of her Invention ⁽⁶⁾ to the USPTO in trust for
 20
 21

22
 23 ⁶ **THE SIGNIFICANCE OF VICTIM'S INVENTION:** Called a 'VAN SWITCH'/Object Router/Service
 24 Network/Object Network/Internet of Things (IoT) [One of many other protected patents in VICTIM's/Plaintiff's
 25 portfolio with a priority date of 1995.], the invention is a Web application platform that enables two-way real-time
 26 Web transactions from Web applications displayed on a Web browser. In 1995, what existed was mere one-way
 27 browsing, not two-way real-time Web transactions from Web applications, nor wireless Internet IoT transactions,
 28 nor Web application/IoT technologies. It is little wonder why Microsoft wanted to purchase VICTIM's/Plaintiff's
 invention; that, failing sued VICTIM/Plaintiff twice (*and lost*) in effort to secure the invention [That failing, simply
 infringed the patent (in corrupt association with other Apple App Store Web application developers; and, the
 USPTO itself in cohort-*five*] conflict and vested interest of federal judges and Patent Administrative judges
 refusing to recuse). This Court must take Judicial Notice of Judge Alsup's ruling in No. C 08-05149 WHA (N.D.
 Ca) on 2/17/09: "Microsoft is using counterfeit logic to manufacture a controversy where none exists." (Exhibit 1.)

1 the '*Public's Benefit and Use*' to a) encourage Inventors to patent contract with the USPTO,
 2 advance commerce, and improve the American economy.
 3

4 **H. Federal Circuit and District Courts' Denial of Due Process and Equal**

5 **Protection of Law to Inventor:** In the USPTO, Federal Circuit and District Courts denying Dr.
 6 Arunachalam due process and denying her fundamental rights to emergency medical care and
 7 dismissing her appeal without an Opening Appeal Brief or a Hearing when Dr. Arunachalam was
 8 in medical distress was utter lawlessness on the part of lawyers and judges, opposing counsel and
 9 courts. The courts and PTAB tampered with Plaintiff's filings in the docket, would not let her
 10 file electronically.
 11

12 366. Judges forfeited their immunities, lack jurisdiction in breaching their solemn
 13 oaths against the Constitution, thereby voiding their Orders, as per U.S. Supreme Court
 14 precedential ruling in *Cooper v. Aaron* (1958) and *Fletcher v. Peck* (1810).
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 23 These market-disruptive innovations should have allowed Dr. Arunachalam to grow into one of the largest
 24 technology companies in the United States, but for Apple and its App Store, Samsung and Google Play Web
application developers engaging in RICO tactics, antitrust violations, unfair methods of competition and unfair
 25 acts in the unlawful importation into the United States, sale for importation into the United States, and/or sale within
 26 the United States after importation of certain IoT devices and components thereof (IoT, The Internet of Things —
 27 Web Applications displayed on a Web browser) — that infringe one or more claims of U.S. Patent No. 7,930,340.
 Each Web application is a grain of sand in the ocean of IoT devices and infinite Web applications, all of which are
 Dr. Arunachalam's inventions.

EXHIBITS

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